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Suppression of Propaganda for the Overthrow of the U. S. Government. (Two debates.)

UNIVERSITY DEBATERS' ANNUAL

Constructive and Rebuttal Speeches Delivered in Debates of American Colleges and Universities during the College Year, 1919-1920

Edited by

EDITH M. PHELPS

33668

THE H. W. WILSON COMPANY
NEW YORK
1920

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PREFACE

Eight intercollegiate debates are reported in this annual, representing ten colleges and universities, large and small, scattered over a wide range of territory.

In accordance with the usual practice of selecting debates for these annuals, the choice has been limited to debates that are not only representative of the intercollegiate debating activities of the year, but that discuss questions sure to be of interest to debaters for the coming year. For this volume, the list of subjects covered has been restricted, unfortunately, by failure of the public stenographer to cover the debate after agreeing to do so. This has prevented two debates on very timely subjects. In spite of this, however, the volume will be a helpful source of specimen material for the student of debating, and will also be useful to him in securing arguments and reference material on the subjects discussed.

Four of these debates are reports of actual debates as they took place and four report the speeches of both teams of one college, the time and place of delivery of each being given. Both methods have their advantages and their advocates. Each debate or set of arguments is accompanied by briefs and a selected bibliography. The bibliographies have been compiled mostly by the editor, and are not limited to the material actually used in the debate, as their main purpose is helpfulness to the prospective debater. Grateful acknowledgment is made to all who have assisted in securing the needed material from the debating teams representd.

October 1, 1920. EDITH M. PHELPS.

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CHAPTER I

GOVERNMENT OWNERSHIP AND OPERATION OF COAL MINES

UNIVERSITY OF CHICAGO

RESOLVED: *That the Federal government should own and operate the coal mines of the United States.*

These speeches were delivered by the teams representing the University of Chicago in the annual intercollegiate debates of the Central Debating League, composed of the Universities of Chicago, Michigan and Northwestern. The debates were held January 16, 1920, and resulted in uniform victories for the negative teams, the University of Chicago being the only college to secure a vote in upholding the affirmative side. According to the rules of the Central League the championship for the year was awarded to Chicago. This report has been compiled from manuscript furnished by the debaters, thru Willard E. Atkins, the Debate Coach. The bibliography was prepared by Miss Cora M. Gettys, reference librarian, Harper Library, University of Chicago.

BRIEF

GOVERNMENT OWNERSHIP AND OPERATION OF COAL MINES

AFFIRMATIVE

INTRODUCTION:

A. The coal strike of November, 1919, revealed some startling facts.
   1. The miners are extremely dissatisfied.
   2. Private coal operators have made enormous profits.
   3. 500,000,000 tons of coal are wasted annually.

B. As a result of private management there is enormous waste, unsteady supply at an exorbitant price, periodic unemployment, and labor unrest.

C. To meet this situation it is proposed that the Federal Government assume the ownership and operation of the coal mines.

D. By government ownership and operation of the coal mines is meant
   1. The government shall acquire the coal mines either by taking over the securities and issuing government bonds to the parties interested, or by some other feasible method.
   2. Operation of the mines shall be left in the hands of the present local executives who shall have absolute and final authority as to the business details.

I. Government ownership and operation of the coal mines is absolutely necessary to the conservation of our coal supply.

   A. A continuous supply of coal is fundamental to the life and power of any nation.

1. Coal is the basis of all industrial prosperity.
2. The nation which controls the coal supply of the world must logically hold the balance of power because the industrial activity of every other nation is at its mercy.
3. Altho the United States has today the most extensive coal fields in the world, its life and prosperity and that of every nation dependent upon it for coal, are threatened unless means are adopted to conserve the coal supply.
   a. 500,000,000 tons a year are being wasted thru failure to adopt thoro methods, thru abandonment of exploited mines and thru haphazzard operation.

B. The private mine operator cannot be depended upon to conserve the coal supply.
   1. Under present methods he is able to build up a fortune in a very short time and so is not concerned with anything but the immediate profit to be made.
   2. He is not inclined to make the necessary investment in machinery and processes for reducing wastes and for producing the by-products of coal that have become so economically important, so long as the raw product continues to furnish large profits.

C. As against the immediate personal-profit view of the private operator, government ownership would look to the future social welfare.
   1. The government is not concerned with immediate profit.
      a. If it can meet expenses it is successful.
      b. The necessity of immediate returns upon the investment, which is inherent in private ownership, does not exist under government ownership.
   2. The government thinks not only in terms of present-day needs, but of the future and of the welfare of the nation as long as it endures.

II. Government ownership and operation of the coal mines is necessary in order that the consumer be assured a continuous supply of coal thruout the year.
   A. The shortage of coal last Fall was due largely to the fact that the mines were operated spasmodically.
      1. They are run at top speed thru the Fall and winter months and are practically shut down thru the summer.
      2. The private operator cannot be expected to run the mines during the summer when he can make a larger profit by waiting until Fall.
   B. Under government ownership and operation, coal could be made available as needed.
      1. By operating to capacity only such mines as are needed, by retaining present managers and technical experts, by utilizing by-products, by cutting down overhead expenses and by pooling knowledge.

III. Government ownership and operation of the coal mines is necessary in order that the consumer may be supplied with coal at a fair price.
   A. The government would be the sole owner of each year's output and so could bring down the price to a fair level.
      1. By eliminating the mine owner and his need for a profit.
         a. The 1918 report of the Federal Trade Commission shows that the consumer is charged for coal two or three times its actual cost.
         b. 1918 income tax reports, as filed with the Secretary of the Treasury, show profits of from 200 to 300 percent to be the rule rather than the exception.
      2. By cutting down the enormous expense of railroad cross-haul.
         a. Under private operation with its ensuing unrestricted competition, each operator is producing for a nation-wide market.

b. The consequence is numerous cross-hauls and endless duplication of the transportation expense—all paid for by the ultimate consumer.

c. Under government operation coal could be secured from the nearest mine, since there would be no competition.

3. By exercising control over both the middleman and the retailer.

a. The government, as owner of the output of the mines, could dictate the price at which it was to be resold.

IV. Government ownership and operation of the coal mines offers the best means of settling the peculiar problems of employment which exist in the coal industry.

A. By working continuously only such mines as are necessary to meet the country's demands, periodic unemployment could be eliminated.

B. By replacing the 14,000 mine owners with one Secretary of Coal who, with the aid of regional directors, could plan production, we would have fewer mines and fewer miners, but full time, full pay and adequate production.

C. A fair labor policy could be evolved which would secure the cooperation of labor.

D. None of these improvements can be expected from the present system.

NEGATIVE

I. Government ownership and operation of the coal mines is impracticable, because

A. Congress is already overloaded with problems of reconstruction and national expansion.

1. There is the railroad question, the peace treaty, industrial unrest, the high cost of living, Ireland, and the appropriations that must be made with their corresponding contradictions, partizan hatreds and consequent lack of action.

B. The attitude of the public mind is unfavorable.
   1. The people will not patiently endure or cheerfully cooperate with a huge governmental experiment.
   2. They have been systematically educated against government ownership and operation.
      a. As a result the American Federation of Labor, the miners, the students of the problem and the mass of the people are opposed to government operation.

II. Government ownership and operation of coal mines is undesirable.
   A. Governments are unprogressive and slow to adopt new methods.
      1. Conservation of coal today depends on the development of generating power plants at the mouth of the mine.
      2. While government commissions were arguing about the theoretical value of power plants, American private enterprise has gone ahead and developed them.
   B. The political party in power fears innovations.
      1. The failure of an expensive experiment would give its political opponents too good an opportunity to ride into power.
   C. Government ownership and operation demoralizes service by being powerless to carry out new ideas.
      1. There is too much red tape for the development of original ideas.
      2. Men of the political party in power are given the advantage in promotions.
      3. Men with ideas and ideals tend to leave government positions for private enterprise.
   D. It would result in the stagnation of the coal industry and increase the waste.

III. Government ownership and operation of the coal mines is unnecessary.
   A. The easiest way to provide for mining of coal in the summer months is by

1. Building storage houses for coal.
2. Lowering railroad rates on coal during the summer to make it easier for the public to buy.

B. Both these aims can be accomplished without government ownership.
   1. Storage houses are already being built by private initiative.
   2. The Interstate Commerce Commission has power to lower railroad rates.

IV. Government ownership and operation of coal mines is undesirable for other reasons.
   A. It would actually provoke labor unrest.
      1. Labor would be subjected to the constant ebb and flow of conservative and liberal administrations.
         a. Labor would combine to perpetuate administrations liberal to it.
      2. The power of labor, as represented by the miners is very great.
      3. Government ownership is powerless to prevent strikes.
         a. This is proved by the experience of New Zealand, with its coal strike of 1910, and of France with its government railway labor troubles of 1912.
   B. Government ownership and operation of the coal mines means the exploitation of the consuming public.
      1. The cost of operation will be greatly increased.
         a. The government will not be able to buy equipment as economically as private owners can.
         b. The waste of government equipment by employees is notorious.
         c. The costs for labor will be increased enormously.
            1. To cover the slower working pace of labor.

2. To pay the increased number of employees just before elections.
3. For higher wages.

2. These costs cannot be offset by eliminating the socalled enormous profits made by the private owner.
   a. According to a Geological Survey report, the average profit on coal in normal times is one percent.
3. Government ownership and operation leaves the government unprotected in labor disputes.
   a. The government becomes a party to the disputes and there is no third party through which to voice the interests of the community.

V. A broad national policy of regulation and cooperation is preferable to government ownership and operation of the coal mines.
   A. Operators should be given permission to cooperate and so avoid many of the evils of competition now actually enforced by the Sherman anti-trust law.
      1. There is ample precedent for such a step.
         a. The Webb bill allows cooperation in foreign trade notwithstanding the Sherman law.
         b. Labor unions have been exempted from the Sherman law.
         c. The Esch and Cummins railroad bills both provide for combination directed by the Interstate Commerce Commission.
   B. Regulation of the coal industry should be nationalized.
      1. Heretofore the states have regulated the coal industry.
   C. There should be an Interstate Coal Commission to direct this combination and regulation.
      1. It should be composed of five members familiar with the industry, who appreciate the demands of industry and represent the public.

2. It should regulate cooperation among mine operators, aid in bringing about regularity of production, have power over prices and freight rates, and have a part in the settlement of industrial disputes.

D. Such a program has been recommended or approved by
   1. Students of the problem, Van Hise, Leith, Seager, and others.
   2. Operators of bituminous mines.
   3. Labor leaders.

E. A similar plan has been successful for thirty years in Belgium.

F. It is in the main the present proposal of the English government for the English mines.

GOVERNMENT OWNERSHIP AND OPERATION OF COAL MINES

UNIVERSITY OF CHICAGO

AFFIRMATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY OF MICHIGAN

FIRST AFFIRMATIVE

Harold Sanders, Chicago

Mr Chairman, Ladies and Gentlemen: On the first of last November some 600,000 coal miners of this country walked out on a strike. Within less than a month the effect was felt throughout the nation. People who had never given the coal industry more than a passing thought were suddenly brought to the shivering realization that here was a commodity absolutely necessary to their welfare and comfort. Industries, mindful of the effects of a tie-up, were unable to avoid the consequences and hundreds were forced to close down. In our city of Chicago 300,000 men were thrown out of employment and 180,000 miles of traffic a week were suspended. In your city of Detroit and in every city and village in the United States people were actually suffering before the government effected what we must all agree is but a temporary settlement.

The strike brought to our attention many important facts. Not only is labor dissatisfied; but in many cases the private operators have made profits ranging from 400 to 2000%. Charges and counter-charges have served only to convince the public that it is paying too much for its coal, not only in labor unrest and in exorbitant prices, but experts warn us that annually 500,000,000 tons of coal are wasted; that for every two tons of coal mined only one is

marketed, and that at the present rate of consumption our supply of high grade coal will be exhausted within 100 years.

This is the condition in this mismanaged industry today; enormous wastage, unsteady supply at an exorbitant price, periodic unemployment, and labor unrest. Not only is this a past and present state of affairs but the future promises only an increase in these evils. We have a supply of coal today, but tomorrow it may be stopped. The strike of December has been settled but you and I have no assurance that it will not occur again next week.

To meet this situation; to stop this enormous wastage, to insure a steady supply and at a fair price, to assure steady employment and to obtain security against further labor unrest, we of the Affirmative simply propose that the government step in and take the whole matter out of the hands of the present mismanagers.

It is unnecessary and indeed undesirable to take time from the substance of this debate to reiterate the details of taking over and financing the coal mines. Like England we could take over the securities and issue government bonds to the parties interested, or if for any particular reason, this plan should be untenable, we could adopt some other method.

As to the operation we would leave it in the hands of the present local executives and they would have absolute and final authority as to the business details; men who could exercise their personal initiative, unhampered by higher authorities unacquainted with the situation.

This, in brief, is our plan for taking over and operating the coal mines.

And, Ladies and Gentlemen, we justify government ownership and operation of the mines, because, in the first place, it is absolutely necessary to the conservation of our coal supply.

As some one has said; "Coal is heat, heat is energy and energy is life." The life of a nation is dependent upon the life of its coal supply. Coal is the basis of all industrial prosperity. Coal is the motive power, which, in times of peace, furnishes and regulates the price of our food and clothes, and in times of stress, furnishes the implements of war. The power of England, of France, of Germany, of

the United States, of every nation is based upon its coal supply. It was for the possession of the coal mines of Alsace-Lorraine that Bismarck fought the Franco-Prussian war. The award of the Saar Valley mines to France means more to her than the possession of half the continent of Africa. The nation which controls the coal supply of the world must logically hold the balance of political power because the industrial activity of every other nation will be at its mercy.

Today we have the most extensive coal fields in the from that of the countries of South America, of Africa and of many of the countries of Europe. This is the reason why the future of these countries depends upon the supply of coal which we furnish them. But, not only is the future growth and power of these nations to be retarded, but the life and prosperity of our own nation will be shortened unless we adopt means to conserve these deposits of coal.

This is the product which the private operator is wasting at the rate of 500,000,000 tons a year, through failure to adopt thorough methods, through abandonment of exploited mines, and through haphazard operations. This is the product which is now found in such rich deposits that the private operator takes only the crust and leaves the remainder to cave in and be destroyed. This is the product which is making the operator of today immensely wealthy within a comparatively short time. He is not looking to the future. As long as he and his dependents make their profit, why worry about the future. He is in business for immediate returns and as long as he obtains those returns, he is not going to adopt methods necessitating an investment which may not be returned for forty or fifty years. The private operator has essentially the short run, immediate personal profit point of view.

The by-products of coal have become important economic facts within the past few years but the private operator considers them only in a minor aspect. To install the machinery and inaugurate the changes necessary to extract these products would demand an investment which he is neither inclined nor forced to make as long as the raw product is furnishing him the present day profits.

We are speaking of wastage. Let us consider in concrete terms just what this means to you and me and the other members of society in general. Experts estimate that the annual wastage of 500,000,000 tons alone would furnish enough ammonium sulphate to increase the wheat production of this country by 450,000,000 bushels, 1,000,000,000 gallons of benzol, a motor fuel superior to gasoline, and 4,000,000,000 gallons of tar. The dyes, which we formerly bought from Germany, and for which we have never found a substitute, could be made from coal but the initial cost prohibits their manufacture. These are some of the products which private ownership is depriving us of today.

Against this short run, immediate personal profit view of the private operator we place the long run, social welfare point of view of the government. An immediate profit is not the aim of public ownership. The government is thinking, not only in terms of present day needs, but of the future and the welfare of our nation as long as it endures. It does not take the fallacious optimistic view that because we are supplied with coal today, we should worry about the future.

But public ownership is not entirely a matter of sentiment. The evils of today, more or less necessary because of the economics of the system, can be corrected by nationalization on sound business principles.

As we said, the government is not in business for profit. If it makes as much money as it spends, it is successful and even then the money need not be returned immediately. The practices of private business demand return of an investment with interest within a period not to exceed twenty-five years. Money returned after that time would not benefit the investor. For instance, if you or I invest $1000, we expect to derive the benefits for ourselves, not for our grandchildren. But the attitude of the government is inherently different. It is an organization, not only of today's generation but of the future inhabitants of the United States as well, and money invested today may not be returned for fifty or even one hundred years and still obtain the result desired without a financial loss.

As Professor Leith, head of the department of geology

at the University of Wisconsin, says: "This necessity of immediate return of privately invested money, which is unnecessary under government ownership, makes a sound argument in favor of the latter, which cannot even be attacked."

In conclusion, thus far we of the Affirmative have shown the present day evils under private ownership and the prospects for their increase in the future. We have outlined a tentative plan for taking over and operating the mines and have shown the importance of a future supply of coal, not only for our own nation, but the whole world as well. A thorough examination of the sentimental and business principles underlying the system of private ownership has convinced us that conservation of our coal supply is impossible, and that government ownership is the only competent means through which the consumer can be assured of a future supply of this all essential commodity.

SECOND AFFIRMATIVE

Royal E. Montgomery, Chicago

The Negative have demanded that the Affirmative differentiate between the coal industry and other industries, before we continue our constructive argument. They state that we must do this or "stand on a platform of public ownership for all industries." Very well. I hold in my hand a book written for the express purpose of discouraging the general philosophy of governmental absorption of business by one of the most bitter opponents of government ownership, Professor Jeremiah Jenks—a man whose opposition to the principle of government ownership makes that of our friend of the Negative dwindle in virtual insignificance. Professor Jenks devotes 298 pages of his book to a scathing condemnation of public ownership in general. But on the 299th page, we find this same Professor Jeremiah Jenks stating that "in some industries, essentially public and different in their nature, such as the coal industry, government intervention and ownership seems desirable."

Once and for all, we do not stand upon a platform of "government ownership of all industries" but we do contend that the coal industry, without any parallel, essentially public in its nature, mismanaged as it is, should be taken over and administered, not with the drive for private profit as the prime motive in operating, but with the object of best serving the consuming public. With a shivering realism, we were all of us brought to a realization, during that strike two months ago, that the coal industry, upon which the life of our nation depends, is different than any other and we are here this evening to debate the necessity for public operation and ownership of this industry, peculiar and individual in its nature, and not "to defend a platform of public ownership for all industries."

As to the cry of governmental inefficiency, we say to our friends: Take the mote of your own eye. When five hundred million tons are wasted annually under a system that looks only for present and immediate profits, when two tons of coal are mined for every one saved, we cannot believe that governmental administration is inferior to private. The truth of the matter of relative governmental and private efficiency is, as Economist Huxley has said, that the government lives in a glass house, all of its mistakes and errors are exposed to the rigid scrutiny of the public view, and the most is made of them by the exponents of the philosophy of *laissez-faire*. But private enterprise is hidden behind opaque walls of brick and mortar; we never know of its inefficiency and inadequacy. But if the mistakes of private enterprise could be pilloried and placed side by side with those of the government, how insignificant these latter would seem.

The big problem in this debate is to determine upon the best solution for the coal problem. The life of our nation depends upon the life of the coal supply. The marvelous distinctive qualities of the United States, in contrast to those of Italy, or of the South American countries, lie in the fact that this nation has had, during these years of its unparalled expansion, an adequate coal supply, and the assurance of a continued superiority and individuality in the years to come is in an adequate supply of coal.

Yet, although the future growth of this republic, our very existence, depends upon the coal supply, we have seen how this fundamental industry is mismanaged, how there is endless duplication, how there is a waste that will exhaust our available supply of coal within 100 years.

A continuous supply of coal is necessary, not alone because the life of our nation depends upon the life of the coal supply, but public ownership is a necessity from the viewpoint of the consumer alone in order to bring about a continuous supply of coal thruout the year at a fair price —that the consumer's interests, yours and mine, may be served. As my opponent has said, it is with the consuming public that we should be primarily concerned, and the Affirmative proposes to devote this portion of our argument to the need of government ownership of the coal mines from the viewpoint solely of the consuming public.

We are not here to debate abstract theories. Let us consider, therefore, in terms of the hard realities of the situation, in just what we, the consumers, are concerned. There are two things: (1) a continuous supply of coal thruout the year, in order that we may have coal when we need it, and (2) a fair price.

The mines today are run at feverish haste during the fall and winter months, then do practically nothing thruout the spring and summer. That is one of the reasons, why we suffered that painful coal strike two months ago. As long as the drive for private profits is the prime motive in the mining of coal, we cannot expect the man who owns these mines to operate during the summer when he can make a larger profit by putting off operations till fall. It is not the private operator who is primarily to blame, for he is only a product of the system; it is the system that is at fault and it is to the root of the system that we must go with our remedy. It is the height of futility to suggest that we attempt to regulate the private operator and then leave the system, of which the operator is only an incidental product, unchanged.

By operating to capacity only such mines as are necessary to supply the computed needs of the nation, by retaining the present managerial heads and technical experts, by a utilization of by-products, by the pooling of

knowledge, by the cutting down of the administrative expenses and overhead of 19,107 operators, coal would be made available, under government ownership and operation, when the consumer wants it. The spirit dominating public operation would not be the drive for private profit; rather it would be public service, and that, after all, is the crucial thing.

After being assured a continuous supply of coal thruout the year and that your interests would dictate the manner and methods of mining coal, Ladies and Gentlemen, the next thing you want is coal at a fair price.

Now, then, just what are the factors that contribute toward determining the price you pay today for fuel. They are four in number: (1) the mine owner; (2) the railroad; (3) the middleman, and (4) the retailer.

Public ownership is necessary to supply you with coal at cost: first, in, eliminating the mine owner and his need for a profit, second, in, cutting down the enormous expense of the railroad cross-haul, and third, in exercising a control over both middleman and retailer. By virtue of the fact that it would be sole owner of each year's output of coal, the government, as owner and operator, would bring the price down to a fair level as no other panacea can do.

As to the first of the four factors contributing toward determining the price of coal—the mine owner. A very brief citation of profits in the industry will serve to show how the elimination of the private operator and his need to make a profit would be the biggest single factor in bringing the price down to a fair level. In 1916 it was found by Director George Otis Smith of the U. S. Geological Survey that $2 more than covered the cost of mining a ton of either anthracite or bituminous coal, and that cost of transportation to the last retailer was not more than this amount—$4 in all. The latest data of the Federal Trade Commission, issued in 1918, corroborates this.

And yet the consumer pays $9, $12 and more! Think of it! It costs not more than $4 to mine and deliver to the last retailer the ton of coal, for which you and I pay more than three times this amount. The profits of the private operators are a well-known secret. In 1918, in-

come tax reports filed with the Secretary of the Treasury showed that profits of from 200 to 300 percent were the rule rather than the exception. And what reason have we to suppose, in these days of inflated currency and the high cost of everything, that the profits will go back to the pre-war level?

Now, then, since price would be reduced in the first place by the elimination of the enormous profits of these private operators, let us consider the next factor contributing toward a determination of the price you and I pay for the warmth of life. This factor, as I pointed out a minute ago, is the railroad.

Under unrestricted competition, each operator is producing for a nation-wide market and the consequence is numerous cross-hauls and endless duplication of the transportation expense—all paid for by the ultimate consumer. Professor Meade of the University of Pennsylvania finds that this cross-haulage, inevitable under private operation, adds at least fifty cents to every ton of coal sold in the United States. For instance, a man in Chicago purchases a ton of coal from a local retailer, who, in turn, has purchased the coal from a wholesaler out in Ohio and had it shipped from there. And too often, the Ohio dealer has obtained his coal from a mine in southern Illinois. There is endless duplication of the transportation expense—and the consumer pays the price.

By operating only those mines necessary to supply community needs, under our plan, coal would be purchased from the nearest mines, since the government would operate not on a competitive basis, but merely to sell coal to the consumer at cost, and the price would be reduced accordingly.

The coal problem is not alone one of mining and shipping. Too often has that mystic entity we know as the middleman, or the retailer, exercised the power placed in his hands by a strike or interruption of shipment, or by a so-called "gentlement's agreement", to foresay a price out of all proportion to the value of the service that he renders.

The government as owner would exercise a sole and exclusive control over each year's output that would enable

it to dictate to the middleman and retailer upon what terms the resale to the consumer should be made. We ask the Negative: Is it not altogether fitting, altogether in accord with our ideals of the true function of our government, that we should be enabled to see that no group of middlemen or retailers can take advantage of any crisis or emergency, or any temporary position of strategic advantage; that the government, when necessary, can step in and say: "Here, Mr. Retailer, you may sell this ton of coal at a reasonable profit of so much per ton, and no more." But unless the government is the exclusive owner of the nation's yearly output of coal, it can never do this.

In conclusion, our position is This: that it is necessary for the public to operate the coal mines of the United States; necessary because the life of our nation depends upon the life our coal supply and under private operation there is a criminal waste that limits the life of our coal supply to the lives of our grandchildren; necessary because the consumer must be assured a continuous supply of coal thruout the year, and this he can never have so long as industry finds it can make bigger profits by operating in the fall and winter and closing down in the spring and summer; necessary because coal must be guaranteed to the consumer at a fair price, and as long as this basic national service is not publicly owned, what the mine operator does not get the railroad, the middleman and the retailer will.

THIRD AFFIRMATIVE

George D. Mills, Chicago

We advocate public ownership, finally, because it will offer the best means to settle the peculiar problems of employment which exist in the coal industry. The strike of 600,000 bituminous miners but three or four weeks ago brought us to a realization that before this coal question can be solved to any degree whatsoever, labor must be considered. When we read the demand of the workers, "We want a five-day week, a six hour day, and a sixty percent increase

in wages" we said the demand is unreasonable; it is impossible, and impossible it was. But as the immediate antagonisms were brushed aside and information began to leak through to the press, we found that these were substantial facts: employment in the coal industry was periodic; daily wages were not unreasonably low, but as a result of alternating work and unemployment the actual earning days of a year ranged from 180 to 220, and the highest yearly wage the coal industry has ever known, in 1919—the war year—was $1380.

It is, of course, unnecessary to point out that the years characterized by the greatest degree of irregularity are the years when the greatest number of accidents occur for the miners work so unnaturally and recklessly to make up the time they have lost. It is unnecessary to point out that the men must work long hours at a terrific pace during the winter months because employment is so insecure throughout the spring and summer. And in the light of the recent findings of the Federal Board of Statistics that a minimum yearly wage of $1980 was necessary to sustain a man, wife and three children in a condition of physical decency it is unnecessary to state that the coal industry can be indited in terms of poverty, malnutrition, disease, infant mortality, and miner's consumption, far beyond that caused by the dampness and darkness of the pit in which he labors.

Nor is the private employer to be blamed for the situation as it affects the worker. Even though an individual coal operator had the most humanitarian considerations at heart he would be powerless to correct the situation. He cannot operate his plant throughout the entire year, and pay wages to his working men when no work is to be done. The system is to blame. Competition in the field of this particular public utility brings into operation periodically, first an over abundance, and then an under abundance of miners. Under our laissez-faire system of operation anyone can open a mine or close a mine when he thinks fit. Thus, today 14,000 mines are in operation, intermittently opening and closing, hiring and firing, and thereby causing not only haphazard production, but social consequences that are measured in terms of an organized, resentful laboring group

growing constantly stronger and stronger and uttering more openly their demands in terms of workman's ownership and operation, and other semi-Russian ideas.

Ladies and Gentlemen, we are at the parting of the ways and there are certain hard, cold facts we must face. The mining of coal has been a mismanaged industry. The history of the past has been too full of failures to consider the human elements in industry and today, we, as members of the public, see a determined organized labor able to force increasing demands from capital. We see a group which has been spured on by the misconducted industry to demands which promise increasingly to be beyond reason. On the other hand we have this essential public utility in the hands of a private owner whose drive is for profits. He cannot and he will not operate his plant throughout the entire year when he can make greater profits by waiting until fall and winter when he can take advantage of demand. Any concession which he gives voluntarily or which is forced from him by organized labor will be in terms of: "I can pass this on to the consumer." The employer cannot correct his methods—he can correct his price and there is no method of avoiding the conclusion that as long as coal is in the hands of private profit the public must bear the constantly increasing cost of a mismanaged industry.

Under the unified control of government ownership, however, by working not intermittently but continuously only such mines as are necessary to meet the country's demands periodic unemployment, one of the basic elements of unrest, would be eliminated and in its stead employment would be continuous. By replacing 14,000 mine owners with one Secretary of Coal who with the aid of regional directors would plan production the social saving would more than justify public operation, for instead of having many mines working at part time and many miners working at two-thirds pay we would have fewer mines and fewer miners but full time, full pay, and adequate production. And not only would irregular employment and low wages be eliminated but a fair labor policy could be evolved which would secure not the opposition but the cooperation of labor. By giving labor the right to participate in the actual conduct of indus-

try, by allowing membership to the representatives of labor on the various boards of control—by giving labor a chance to present its grievances and demands and actually have a hand in management a basis of cooperation would be assured.

Finally, we advocate public operation in contrast to the present mismanaged coal industry with its annual waste of five hundred millions of tons, with its failure to utilize by-products, with its absence of machinery, its inability to insure the consumer coal when he wants it at a fair price, its medieval method of alternating work and unemployment, its continually opening and closing mines, and its failure to insure proper distribution through middlemen and retailers who can so frequently at crucial times exploit the consumer. The coal industry stands indicted. As it is to-day both the Affirmative and Negative are agreed; It is a mismanaged industry and a social failure.

Our problem, then, is to see how it may be best made to serve those interests which are fundamental and which have been so long ignored. In opposition to public operation our opponents have proposed a different scheme. But, as we have already seen, there is no hope that this public utility can be made to serve the interests of a nation either by adopting an attitude of stupid indifference or a policy of most drastic regulation. Our policy may be either indifferent or drastic, it may touch either extreme or it may stop at any stage between these extremes, but as long as their plan, —indifference, regulation, or what-not—leaves this essential of life and industry within the realm of private profit, the case which we have brought forth, stands unshaken,—stands in its substantial elements.

The public alone is the competent authority. You cannot expect any private owner who looks upon coal as his field for profit-making to do anything other than attempt to block and to evade any system which seeks to look to the future development of this country when the inauguration of such a system means either a slower return on his money or a reduction in his profits. You cannot expect the single individual to run his mine when he has no orders for coal; you cannot expect him to pay his workingmen when the

mine is closed down, you cannot expect him to mine that ton of coal during June or July and get a twenty-five cent profit when he can mine the same ton through hurry-up methods in December or January and get 125 cents profit with the possibility that a railroad tie-up, a local shortage, or a shortage due to accelerated consumption may multiply the $1.25 several times. Under no system, whether it be that of indifference or drastic interference, can you force the producer to look out for the interests of the consumer. With labor becoming increasingly powerful and with demands that are becoming more insistent changes must occur in the mining of coal. As long as the private operator is there with his balance sheet on his desk there is no real basis of co-operation either with labor or the public for competition and private profits will not permit employment on a basis that will cure unrest and every concession made will be measured in these terms: I will give in on this point for I can pass it on to the consumer. Private enterprise stands condemned for it will not conserve unless such action will bring immediate large profits. The private enterpriser has neither inclination nor the capital to buy conserving machinery and devices for the utilization of by-products. The profits he is making now are sufficient so what matters if society loses coal and by-products.

In conclusion, public operation of the coal industry, a public utility and a public necessity, is sound socially and sound economically. Sound socially, because the industrial life of this nation is dependent on the life of its coal supply and the public is the only competent authority to insure the industrial future of this country and the utilization of by-products, daily being scrapped as useless in a regime of private profits. Sound economically, because it is the only means of assuring the consumer a continuous supply of coal at a fair price, and because it offers the only way out of an increasingly dangerous labor situation, offering as it does a basis of co-operation on the principle that this fundamental national resource shall be operated not with the motto of "Personal profit first" but rather both first and last "Service to the public."

FIRST AFFIRMATIVE REBUTTAL

Harold Sanders, Chicago

The Negative makes the statement: "The general public, the great body of American people, is most concerned in this proposition of whether or not the government will own and operate the coal mines," and that is why we of the Affirmative again insist upon immediate public ownership and operation of the coal mines; first, because, the life of our nation is dependent upon the life of our coal supply and public ownership is the only means by which we can secure this conservation; second, because government ownership and operation is the only way by which the consumer can be assured of a steady supply of coal at a fair price; and, in the third place, because government ownership is the only way to a solution of the labor problem in the coal industry.

By their silence we must assume that our friends of the Negative admit our first propositions, namely, that the problem of taking over and operating the mines does not offer a serious obstacle, and that the future of our nation is dependent upon the life of our coal supply.

They deny that 500,000,000 tons of coal are wasted annually but state that most of this is used in the form of coal pillars, an economic saving. May I call your attention to a statement on page 196 of the book, "Conservation of Our National Resources," in which their own authority, Engineer Chance of the U.S. Geological Survey says that some 200,000,000 tons of coal are left in the form of pillars. We admit these figures and the economic saving, but wish to call your attention to the fact that the saving accruing therefrom benefits not the public now or the future public, but the private operator of today. To provide substitute pillars of some less essential product would demand an expenditure of his profits which he does not care to assume.

In addition, however, to the above figures, we wish to refer our friends to an article in the *Dial* of November 1, in which W. N. Polakov, power expert for the Emergency Fleet Corporation says that the method of modern mining

causes a waste of 500,000,000 tons annually in addition to the amount used as pillars.

Finally, our opponents take as their stand, "Private enterprise is spurred on by private gain," and attempt to show thereby that private ownership in the coal industry is more efficient than government ownership. Rather than consider this matter of efficiency as an abstract matter couched in general terms, rather than consider that the desire for private gain makes J. P. Morgan more solicitous about the welfare of the American people than the government itself, let us consider in just what way private industry, with its plan of regulation, will be more efficient with regard to our first proposition, that of stopping the annual wastage of 500,000,000 tons.

In the first place, the Negative would place this regulation for which they contend in the hands of that same government whose efficiency they have denounced in such bitter and relentless terms. In the second place, they have failed to show just how this form of private ownership under government regulation will compel the private operator to adopt any of the methods necessary to stop the present day wastage, viz., utilize by-products, use poor grade coal, conserve at the pit mouth, use coal dust, and finally and most important, they admit that their remedy cannot strike at the basis of every evil in the coal system today, the necessity for the private operator's immediate personal profit.

In the absence of this proof and in the light of the long time, national welfare point of government ownership which does not necessitate a profit and which inherently looks after the welfare of our present and future nation, we of the Affirmative take as accepted the proposition that our plan offers the only means of conserving our supply of coal by stopping the present wastage.

SECOND AFFIRMATIVE REBUTTAL

Royal E. Montgomery, Chicago

Since the Negative have had nothing to say concerning the first of our major propositions, that the life of our na-

tion depends upon the life of our coal supply and that private enterprise does not, cannot, provide for the welfare of future generations, let us consider the second main proposition we have raised in this debate—that government ownership and operation is necessary from the viewpoint of the consuming public in order to bring about a continuous supply and at a fair price. Now, what have our friends had to say in answer to this?

Their entire answer is that, by the wording of this question, we are confined to a discussion of ownership and operation by the government only as far as the pit mouth. But if the gentleman had not been so closely confined to his manuscript he would have noted that what he did say was that the results of government ownership would be a reduction of price by the elimination of the railroad cross-haul and by the control that the government, as exclusive and sole owner of each year's coal output, would exercise over middlemen and retailers. These would be definite, tangible results of our plan, and since we are debating whether the federal government should own and operate the mines, we are most certainly justified in, indeed called upon, to show what the results would be. Surely my friend of the opposition is not afraid to have the results of the plan we are advocating brought before the audience!

The third advantage of our plan, as brought out in our constructive speeches, is that under public ownership and operation labor would be given a participation in its product —that the human element in industry would be safeguarded as it cannot be now. In reply to this, the Negative have raised a tremendous cry that our plan would not solve labor difficulties because labor would be dissatisfied with government ownership, strike, "go red" and what not. The upholders of the Negative have either ignored, or are blissfully ignorant of, the fact that at the Cleveland convention last August 950,000 mine workers of America, thru their elected representatives, declared themselves in favor of nationalization of the mines. So the labor phase of this debate, in the last analysis, sifts down to this: On the one hand, you have the *ipsi dixit* of the Negative that labor would be so dissatisfied with the change that it would immediately strike and tie up industry; on the other hand you

have the statement of 950,000 miners that government ownership and operation is just what they want. Take your choice.

We do not maintain any magic, neither do we propose to turn this industry over to radical labor elements, but what we do propose is to take this basic national service out of the arena of perpetual strife between capital and labor—to remove the inherent fear, the constant distrust, that labor feels for private profiteers—and this, Ladies and Gentlemen, has been the most potent cause of past strikes in this industry.

Government ownership is inherently efficient, as we showed you as our fourth and final proposition, in that it would eliminate the greatest cause of the inefficiency in the industry today—the drive for private profit. In reply to this, our opponents have raised the "pork barrel" and "politics" hackneyisms; they have told you that the United Mine Workers of America would exercise the balance of power in elections and would run the mines to suit themselves, not the public.

But they have been silent upon two outstanding facts that utterly disprove such assertions: first, that no man can afford to run for a national office today upon a purely labor platform, and, secondly, that no group of governmental employees ever votes as a unit. The post office has more than a million employees, yet who ever heard of the post office employees controlling the political life of our nation? Since our Michigan friends have themselves raised the point of political control, we shall be glad to hear the next speaker point out wherein the employees of the Ann Arbor post office swung the last election in this city.

In answer to their sweeping generalization that it is individual initiative and enterprise that has made this nation what it is, we simply ask our friends whether they are satisfied with the results of individual initiative and enterprise in this particular industry. In the days of our Pilgrim fathers it was thought that individual initiative would lead to opportunity, but under the grim conditions of 1920 we have found that in an industry as peculiarly and essentially public as is this coal industry, it is administered in private hands with the results of criminal waste, exploitation, exorbitant

prices and labor dissentions—and it is with the grim conditions of 1920 that we must deal.

The Affirmative has raised four main issues in this debate: (1) that the life of our nation depends on the life of the coal supply, and that the welfare of future generations demands government ownership; (2) that public ownership is a necessity from the viewpoint of the consumer, to assure him a continuous supply at a fair price; (3) that our plan is the only one that can recognize the human element in labor, and (4) that government ownership is inherently efficient, in that it eliminates the biggest cause of present inefficiency. We demand that the last speaker for the Negative now meet us upon these issues.

THIRD AFFIRMATIVE REBUTTAL

George D. Mills, Chicago

The Affirmative team accepts the inference that it is proposing a plan which looks somewhat socialistic, whatever that verbal brickbat may mean, if to propose the reform of a mismanaged industry calls for such terminology. Indeed, it is astonishing in these days of raiding and exporting that any proposal which in any way whatsoever seeks to change the *status quo,* even though in college debate, does not constitute a basis for a raid by the Department of Justice. It is not necessary, however, to remind an audience of the type here to-night that the best antidote for unrest is reform and that there is less danger probably from the so-called Red than from the man who always sees Red.

The steel workers recently went upon a strike against the conditions of work in the mills. Elbert A. Gary answered their request for a reduction of a working day of twelve hours and seven days a week with the charge that they were Reds,—and he won the strike. The coal miners have protested in no uncertain terms against an industry which has paid them less than living yearly wages; an industry where alternating work and unemployment has made the thoughtful worker look with concern to

the future, and created within the less careful an improvident, reckless attitude—the antithesis of thrift and well-being. Our answer to this situation is that it is of sufficient importance to command the concern of all society and that the Government recognize as its duty the task of remaking our mining industry.

In this regard it is significant to note that the one constructive plank in the case of the Negative is their suggestion of governmental regulation of this industry in private hands. We cannot refrain from calling your attention to their charming versatility. After devoting two entire constructive speeches to alleging certain evils exist in the plan of the Affirmative, they have come back in their third constructive speech and proposed a plan that embodies every inherent evil they had already spent two-thirds of their argument in attempting to associate with our plan of government ownership and operation. But regulation will not remedy the conditions. It will not remedy them, in the first place, because, at best, regulation creates nothing but an evasive force. It makes it an incentive for the private operator to conceal real conditions, to hide his actual profits. Why should we make our Uncle Sam a gum-shoe artist, with all the endless effort and expense that this will involve; why not put the offender in jail, instead of saying that we will prescribe certain conditions for his conduct, and watch to see that he complies with them?

Regulation will not regulate, in the second place, because it does not go to the inherent evils—evils which our friends, as you have doubtless noted, at first attempted to deny and then suggested a remedy for. The real evil lies in the drive for private profits. We must eliminate the necessity to make a profit, or the public will go on paying the price. And finally, regulation will not regulate because experience has proved this. We have had attempts to regulate since 1888 in our Sherman law, our Clayton law, our Hepburn bill, but all these, in the words of Ex-Attorney General Olney, have been but toys in the hands of these monopolies. Our friends are just forty-two years too slow in suggesting regulation.

The question we have been debating is too broad and

too insistent to be side-tracked by the comment, "Well, let's regulate." The issues are too basic to be answered by the comment that the government has made a mess of the railroading which was assumed as a governmental task, as you will recall, only after the private owners themselves had fallen down on the job, and which was run by the government with but one end in view and that end was to end the war.

Such criticism, which undoubtedly has some basis in fact, does not meet, however, the real issues of this debate, and aside from a small criticism on this point and a small criticism of that point, the main arguments for ownership and operation stand unshaken. That coal is being wasted at the rate of 500,000,000 tons annually is a fact which does not permit of argument; that in wasting it potential light, heat, and comfort are forever lost to the public is likewise beyond contradiction. And how is the future industrial life of this nation to receive due regard under any system of operation which leaves the mine owner in control with his dominating motive that of private profit? We have heard no answer.

Under any system other than public operation, how will you assure the consumer that what the mine operator does not take, the middleman and retailer will not? There has been no reply.

Manifestly, the situation is such that we must turn to the only competent authority, the public, and let it express the interests of its citizenry in public operation of these public utilities, the coal mines of the United States.

Negative Speeches in Debate Against Northwestern University

FIRST NEGATIVE

Henry Ponitz, Chicago

The preceding speaker said, "Coal is a mismanaged industry." Now the question is not whether or not coal is a mismanaged industry, but is government ownership and op-

eration the one most desirable method of correcting that situation. He again states, "The consumer is paying too much for his coal supply." Again we say the question is not whether or not the consumer is paying too much for his coal supply, but will government ownership and operation enable the consumer to get his coal at a lower price. He further states, "Fifty percent of our coal supply is being wasted". And again we reply that the question is not whether or not fifty percent of our coal supply is being wasted, but is government ownership and operation the one most desirable method of eliminating that waste. Until the gentlemen of the Affirmative show how government ownership and operation will correct these conditions, they make no progress in this debate.

Indeed, the gentlemen have reached a conclusion, a conclusion which Dr. Van Hise of the University of Wisconsin was unable to make after a life time of study; a conclusion which George Otis Smith, head of the Geological Survey, was unable to reach with all the facts at his disposal. Mr. Smith states that a study of the conditions in the coal producing districts fails to encourage the idea of government ownership and operation of the 7,000 commercial mines. In the face of these facts we are compelled to believe that the Affirmative have underestimated the complexities in the coal industry. For not only are there 7,000 commercial mines but 15,000 others producing less than 500 tons a year. Thus we have over 20,000 mines, some of them involving a production of less than county wide importance; 20,000 mines scattered over eighteen states in the union, hiring 920,000 laborers and producing annually over two-thirds of a billion tons of coal.

Before reaching any definite conclusion we believe it is fair to ask our opponents to indict the authority of Dr. Van Hise, George Otis Smith and Harlem H. Barrows and show wherein their conclusion against government ownership and operation has been influenced either thru bias or faulty reasoning.

The real point is that our friends have failed to present the complexities and the essential human nature of the institutions which are called upon to solve this problem. Government ownership and operation of coal mines is imprac-

ticable at the present time because Congress is already overloaded with problems of reconstruction and national expansion. Now we appreciate that this is a serious indictment but we must remember, however, that we are dealing with human nature and human institutions, not as they should be, or may be fifty or a hundred years from now, but as human nature and human institutions are today.

Consider the facts: Here stands our unwieldy institution, Congress, with the railroad difficulties on one shoulder and the peace treaty on the other; crushing industrial unrest with one hand and scuffling the high cost of living with the other; dandling infant Ireland on one knee and paddling Mexico over the other. You, my friends, know the degree of contradiction, partisan hates and lack of action that resulted. But this is not all. A railway deficit of $646,000,000 must be met. Appropriations totaling $1,250,000,000 must be made to restore depleted equipment; a revised income tax must be established; mail clerks and other government employees must have additional pay; a thousand and one things must be done, and yet at this most inopportune time when so much is conflict and antagonism and so little is progress and intelligence, the gentlemen would thrust upon this same Congress the problem of choosing the most politic method of evaluating, the mines, then raising from five to ten billion dollars, managing 920,000 laborers and superintending the operation of not only 7,000 commercial mines but exercising a sort of squatter sovereignty over 15,000 others—little more than local gopher holes. These factors make their scheme impracticable.

Government ownership and operation is impracticable because of the attitude of the public mind. The people will not patiently endure or cheerfully cooperate with a huge governmental experiment. A pertinent question then is: Do the people want government ownership and operation and would they willingly cooperate?

During the war we read article after article commenting on the fact that the war had brought about the complete socialization of industry. One democratic politician even went so far as to advocate as a political issue, government ownership of all public utilities. But in more recent months since the war there has been a steady psychological revolt

against government ownership and operation. The government air craft boards, the government railway administration, the government operation of the telegraph lines, have been stigmatized before the public. Now the point is not whether the government did these things efficiently and well, the point is that the people have been led to believe that our air craft program was a collossal graft, that our railway service was waxing inefficient, and that our freedom of communication was maliciously doctored by the government.

And despite the impending situation no one has seriously proposed government ownership and operation. During the month of December, 1919, word came from Washington that at a democratic caucus it was decided to leave government ownership and operation out of the national platform, because the people had been systematically educated against it. The attitude of the Republican party is too well known to need expression. But just what do the people demand? The miners do not want government operation but miner's operation. Some would have the government antagonize business, others would have it cooperate with business, but not until this evening have we found three gentlemen who seriously contend that the government absorb business. The American Federation of Labor, the miners, the students of the problem and, in fact, the mass of the people are opposed to government operation.

In order to maintain their position the gentlemen of the Affirmative are called upon to show that this gigantic task can be adequately handled by an already overloaded Congress; they must show how Congress will evaluate these mines, remembering, that in the seven years we have been attempting to evaluate the railroads we have so far secured estimate evaluations for only two spur lines less than one hundred miles each, and it is interesting to note that these two railroads say that they will fight the evaluation before the Supreme Court. Finally, they are called upon to show how they will reconcile to this policy the mass of the people and 920,000 miners when a government does not even offer a sympathetic ear to what labor calls a fair demand.

We hold no brief for the present operators or for the present method of operating the coal mines. We are aware

however, that there exists much misinformation as to the status of certain features of the coal industry. In the matter of waste, for instance, it is charged that for every ton of coal that is mined, a ton is wasted. Frank L. Chance of the Massachusetts Institute of Technology points out that pillars left to support the roof are not waste but conservation of the highest type, because it saves the labor and material expenditure necessary to build substitute pillars. He says the largest part of the remaining coal is abandoned because the continuation of operation would imperil human lives. He further points out that the conservation of today depends on the development of electric power plants at the mouth of the mine. While our government commissions were arguing about the theoretical value of power plants, American private enterprise has already developed million dollar generating plants in Pennsylvania, West Virginia, and Alabama. Thousands of dollars have been spent in developing them and they are still in an experimental stage. The qestion is: will a government monopoly accelerate or retard this tremendous development of the coal industry?

Careful study of the question points to the conclusion that a government monopoly means the slowing up of an industry in a period of tremendous expansion. Why? Because it is afraid of innovations. The administration in power knows that failure of its expensive experiments would give its political opponents too good an opportunity to ride into power. Dr. Meyer, in his study of the British telephone system, says that the telephone system of Great Britain is antique when compared with the private system of the United States because the party in power cringes from junking the old equipment for fear of making political capital for its opponents.

Not only is a government monoply afraid of innovations, but it is powerless to originate new ideas. Even if an employee should have an idea, he must first convince the local board, the local board must convince the district board, the district board must convince the central board and by that time the originator of the idea is bored to death. The National Civic Federation after a study thruout the world made the following report: Whenever two government employees of about equal capacity were open for promotion, the one

in sympathy with the dominant political party got the job. In other words pull may count as much as push, and ability to produce votes is likely to take precedence over service. For these reasons men with ideals and fertile brains leave government positions and seek private enterprise. Secretary of Commerce Redfield states that during the past two years, the Bureau of Standards has been handicapped by the resignation of fifty percent of the staff. Since conservation today depends on the development of electric generating plants, and since the government is afraid of innovation, since it is powerless to originate new ideas, upon which depends the development of these plants, it seems reasonable to believe that a government monopoly means the stagnation of the coal industry and the intensification of waste.

In Conclusion: Government ownership and operation is impracticable in the face of an overloaded Congress and an antagonistic public because it would throw another stupendous problem of reconstruction upon an already over-loaded Congress. It is undesirable first, because the political party in power fears innovations; second, because it demoralizes service, and therefore, means the stagnation of an industry in a period of tremendous development.

SECOND NEGATIVE

Harold Lasswell, Chicago

The gentlemen of the Affirmative are evidently unable to meet the first charge of the Negative and show us specifically how government ownership and operation of the coal mines is practicable in the face of an overloaded Congress and an antagonistic public. This is not a sentimental question of what ought to be done, but a commonsense recognition of the limits to the effectiveness of any single overburdened human institution. In these days when our overloaded Congress is running a year behind its reconstruction program, weighted down with its own unwieldy partisanship; in these days when the commonsense of the American people is rebelling against governmental absorption of industry, and demanding the return

of the railroads, the cables and the telegraphs to private enterprise; and in the face of the testimony of Van Hise, Smith, and the leading students of the problem, government ownership and operation of the coal mines is clearly out of the question.

In response to the charge that government ownership and operation of the coal mines means the stagnation of the coal industry at the very time it is developing the devices upon which true conservation depends, we are told that the Affirmative stands for "regional directorates". Now let us examine this gift horse in the mouth and see if it is such a new acquaintance after all. Since the powers of Congress are specifically granted to it, it follows that when a coal administration is set up, its powers must be specifically delegated to it. When the coal administration sets up its regional directorates, it is obvious that their powers must also be specifically delegated. And when the director of the Illinois-Indiana producing district appoints his two thousand local mine superintendents, clearly their powers must also be specifically delegated. And here we have our old acquaintance, government bureaucracy and routine methods, with its restricted specified powers, and its substitution of a code book of rules and regulations for free adaptibility to local conditions:—the same old reprobate masquerading under a new alias, "regional director".

The next problem of governmental ownership and operation is to keep the mines running in the summer time, in order that a surplus may be built up to supplement the heavy demands of the winter months. Now Lesher of the Geological Survey has pointed out that the easiest way to keep the mines going in the summer months is: (1) to build storage houses for coal; (2) to lower railroad rates on coal in the summer and thus make it profitable for you and me to buy our coal in the summer. But government ownership and operation has no monoply on either one of these policies. Do we need storage houses? Already two thirds of the coal used by the Northwest and the New England states is stored in the summer, and our coal periodicals point out that storage houses are being erected at an unprecedented rate. Should we cut our railroad rate? All right

let's do it; but we don't need government ownership and operation! The Interstate Commerce Commission has just as much power to-day as it would have under their scheme. In a word since neither one of these policies is inherent in government ownership and operation, we do not need government ownership and operation to stabilize the coal industry. We can stabilize it without assuming the tremendous burdens of coal mine evaluation, litigation, financing, and operation.

The most fundamental problem of ownership and operation has not been touched by the gentlemen—the problem of abating labor unrest. And it is well that the gentlemen have been silent on this proposition, because government operation actually provokes labor unrest. Now we appreciate that this is a strong statement, but we must look the facts in the face. This policy would subject labor to direct employment by the changing ebb and flow of conservative and liberal administrations. Of course labor would combine to secure and to perpetuate liberal (by liberal meaning squeezable) administrations, and to oust the conservative. That's just plain human interest. To be specific: if you were a postoffice employee under the present Burleson régime, would you vote for the continuation of the present administration in power? And under government ownership and operation of the coal mines this individual instance is multiplied by a million, by a compact mass of voters scattered thruout eighteen states of the union, and large enough to hold the balance of power in many of those states:—a compact mass neither for the Republican candidate, nor for the Democratic candidate, but for the highest wage candidate.

And in conservative administrations, when political combination does fail, government ownership is powerless to eliminate strikes. This is true from autocratic Prussia thru parliamentary England, to Socialistic New Zealand. For specific testimony to support this conclusion, we need only look at the record of New Zealand, where in 1910 the conservative administration in power refused to raise the wages of the miners in the state mines, and a mass of 10,000 determined men marched on the capital and forced the retirement of the adminstration in power; or to France, where in 1912 in order to forestall a threatened railroad strike on the

state owned lines, a state of war was declared, the railwaymen mustered to the colors, and threatened with death if they deserted their posts,—only to have the railway service of France demoralized by carelessness and quiet sabotage, and to leave to this day the strongest syndicalist movement in the world outside of the state operated railroads of Italy.

Aside from the fact that government ownership and operation of the coal mines is impracticable in the face of an overloaded Congress and an antagonistic public, aside from the fact that it means the stagnation of the coal industry and therefore the intensification of waste, that it is not needed to stabilize the industry, and that it provokes labor unrest—government ownership means the exploitation of the consuming public. The head of the Geological Survey has pointed out that only two items (equipment and labor) make up ninety percent of the mining cost of coal. Do you believe that the government is going to buy its equipment as economically as the private operator? Our experience in the erection of $50,000 post offices for $100,000 would scarcely bear out any such hypothesis. And not only must the government pay more in the first place, but the waste of government equipment by government employees is notorious. Government railway employees carelessly slamming and smashing glass doors and charging it to overhead, government shipping boards knocking off at half prices to foreign countries the potential units of a great merchant marine: these things are typical of government labor, because it is nobody's business to be careful.

And the costs for labor must be enormously increased, as Victor S. Clark has pointed out after a careful study of government enterprise, to cover the slower working pace of labor, the enormously increased number of employees just before elections, and the higher wages.

But what of the enormous profits with which the government is to offset the increased expenditures for materials and labor? According to the same report by the head of the Geological Survey referred to before, the average profits on coal in normal times is one percent of the mining costs of coal! It is rather difficult to see how the government can offset increased expenditures on ninety percent of its costs by eliminating a one percent profit— especially when we re-

member that it is this small profit margin which has given society the benefit of a personal interest that has transformed the coal industry from a hand industry to a machine industry within a decade, and which is to-day developing the devices upon which true conservation depends.

Not only does government ownership and operation mean the exploitation of the consuming public because of needlessly increased costs, but because it leaves the community unprotected in labor disputes. England found this out when her railwaymen struck against the government. As Lord Robert Cecil was compelled to admit: "It was at once evident that in a dispute between the government and its employees, that there was no one to look after the interest of the community as the government was no longer impartial." We all realize that the biggest need in an industrial dispute is for a third party to step in and bring the employers and the employees to an agreement on the facts in the case, for when the facts become clear, justice becomes clear. But when the government directly employs labor it merely takes the place of the private employer in the minds of the laboring man, and he instinctively distrusts its assertions. As a result strikes drag on or the government is compelled to declare armed warfare against labor: all because the voice of the public cannot find coherent expression thru its accustomed agency, the government, for the government is no longer impartial. And the outcome for the gov- whole matter is lack of confidence in the government by a disgrunted body of employees and a disgusted public.

THIRD NEGATIVE

Thomas McCollough, Chicago

At the very outset in this debate we pointed out that government ownership and operation of the coal mines is impracticable at this crucial time and that the burden is on the Affirmative to show how Congress, already burdened with the most intricate legislative problems of a reconstruction period, can assume the colossal burden of evaluating, financing and operating the same. The gentlemen reply

that Congress will not decide all these matters but that it will all be left to appropriate committees. We have replied that Congress is not in a position at this time to give this question the study and reflection that is necessary for a proper solution.

We have pointed out that such a system means the stagnation of an industry in a period of expansion and that it does not mean the elimination, but the intensification of waste, by a political administration, afraid of experiment, clogged with bureaucratic methods, and devoid of the driving power of personal interest.

We pointed out that government ownership and operation is not needed to stabilize the coal industry but that this may be done with the remedial agencies of the present system.

We have insisted that it actually provokes labor unrest and that it means the aggravation of the strike situation. We have shown that it means the exploitation of the consuming public. First, because of the increased cost and, second, because there will be no one to represent the public in the time of a crisis.

The gentlemen of the Affirmative have been too busy to reply to these indictments. They have challenged us to present a plan to meet the coal problems and we hasten to accept that challenge.

They look over the coal industry and see some faults. Then they tell us the government must own and operate. Let us follow their philosophy to its final conclusion. There are evils in the coal industry, in the steel industry, in the packing industry, in the manipulation of farm products. So we must socialize these productive agencies. If we follow the Affirmative we will wake up in a thorough-going socialistic state. Is that the only alternative? We realize that the present system is not a perfect one. It has its faults, but rather than accept the colossal burden of buying the mines, directly employing the United Mine Workers of America, choosing their all-extensive socialistic experiment, with its inefficiency, its inevitable political corruption, its bureaucratic methods, we would rest content with the present system. Fortunately, the American people are not forced to take this plan nor be content with the present sys-

tem as it exists today. As students of the coal problem have pointed out we may retain private property and private enterprise that have done so much to uplift the human race, proceed to eliminate these faults and make the coal industry satisfy our public needs.

With this in mind we are advocating tonight a broad national policy of regulation and cooperation. Before stating our plan let us see what the conditions are before us.

We have already pointed out that in the Anthracite field of Pennsylvania, with its combination, with its mutual agreements, production and employment have been stabilized, and the waste is as small as human ingenuity can make it. But anthracite coal is sold in forty-eight states and the next step should be effective regulation by the federal government.

But what of the conditions in the bituminous fields? The situation is quite different. We have about one dozen well-defined ores in eighteen states of the Union. Take the central competitive field of Illinois and Indiana as a typical example. Here we have seven hundred competing operators. It means cut-throat competition. This means in turn periods of over-production, followed by under-production, waste of coal, irregular employment and fluctuating prices.

The sad part of it all is that it is enforced cut-throat competition. As Dr. Van Hise, followed by other economists and best legal talent has pointed out, the enforcement of the Sherman Law under which combined selling agencies, price agreements, division of production and territory, and combinations have not been allowed has resulted in waste, and irregular production and employment. For example, take the Central competitive field again. There cannot be one selling agency for the different coal companies but there must be many selling agencies and the coal of Pittsburgh comes into Illinois and Illinois coal goes toward Pittsburgh. These operators cannot enter into price agreements to eliminate cut-throat competition and so we have fluctuating prices, failure of operation and abandonment of mines. These operators cannot divide production and so we have periods of over-production followed by under production. These companies cannot merge their capital to any extent and this hinders the establishment of coking and

by-products plants, the instalment of modern machinery and assuming the obligations of a Workmen's compensation act. Add, to these, the fact that mining is preeminently an industry of large capital for success and you have a clear case for taking the coal mines from under the operation of the Sherman Law. Let us go further in this argument.

Congress thought the development of foreign trade would be conducive to the public welfare and so the Webb bill was passed allowing these forms of cooperation in foreign trade notwithstanding the Sherman Law. Congress thought labor unions conducive to the public welfare and exempted nation-wide exemption of labor unions from the Sherman Law. Congress will return the railroads to private owners but apparently it thinks cut-throat competition has failed and both the Cummins and the Esch bills provide for combinations directed by the Interstate Commerce Commission.

Now, Ladies and Gentlemen, if cooperation is allowed in foreign trade with labor unions, with the railroads because it is conducive to the public welfare, how much stronger is the argument when we come to the coal mines where enforced competition means waste, irregular production and unemployment.

We propose that our government shall cease to be antagonistic to the coal industry and enter upon an era of cooperation.

Now the permission to cooperate does not mean freedom from restraint but implies the power to be regulated and we propose that this regulation shall be nationalized. Heretofore, the states have regulated the coal industry. The Federal Government has regulated only incidentally under its war powers. So we have today a disorganized and dislocated industry. We are dealing with an industry of national importance and Congress should come to the rescue on matters of national interest and be supreme where it acts.

When the operators have been given the permission to cooperate and Congress has the power to regulate we need a national agency to direct this cooperation and combination. We propose an Interstate Coal Commission as the agency of national regulation to be composed of five members who are familiar with the industry, who appreciate the demands of labor and who will represent the public. This

Commission will first make a scientific survey of the coal mines. It will supervise the cooperation and combination of operators. When operators consolidate selling agencies, enter into price agreements, divide production and form combinations, it will be done with the approval of this Commission. It will see that no unfair and excluding practices are engaged in. This means more protection from monopolistic practices than we have at present with the Attorney General sitting at Washington prosecuting at random.

This Commission will aid the operators in bringing about regularity of production. In conjunction with the operators and the Interstate Commerce Commission it will establish differential freight rates, a sliding scale of prices, and aid in publicity in the spring and summer.

This Commission may be given the power to rule on the price of coal. We do not believe in a regular price fixing policy to begin with but a certain discretion as to maximum and minimum prices should be vested in the Commission. All operators deserve a fair return on a fair investment. This Commission will act accordingly.

This Commission will play its part in the settlement of industrial disputes. It will have the powers of investigation. When a dispute arises, it will summon the parties before it; it will make a recommendation for the parties; and this report will be published to all the world. Who can estimate the force of an enlightened public opinion? This program, recommended by the Anthracite Commission, by the recent Senate Committee investigating the steel strike, by the recent Industrial Conference at Washington, is safer by far than what the Affirmative propose. We propose conciliation and keeping our government in the position of a disinterested third party. They make the government a partisan warrior and then Prussianize the situation with governmental force.

This plan is a simple one: Permission to cooperate, followed by federal regulation with the Coal Commission as the agency of that regulation. This plan has not found its genesis between the musty pages of some Marxian treatise on political economy but in the concrete need of the coal industry. It is in line with a new governmental policy in dealing with our basic industry: Witness, the fact that last

week Senator Kenyon introduced a bill for the federal regulation of the packers with an Interstate Live-stock Commission as the agency of that regulation.

This program has been recommended by the students of the problem, Van Hise, Leith, Seager and others. I hold in my hand a request from the bituminous operators for the entire program. Labor leaders have expressed approval of the plan. It stabilizes employment. Both the Republican and Progressive parties of 1908 and 1912 mentioned cooperation with regulation through Industrial Commissions. This plan has worked successfully for thirty years in Belgium where it has standardized the coal industry. It is in the main the present proposal of the English government for the English mines.

Who advocates the Affirmative plan? Not long since the executive committees of both the Republican and Democratic parties, let it be known that no government ownership planks would be placed in their platforms. Evidently, the gentlemen do not belong to either of the two major political parties. The miners would like to have government ownership with miners operating. Evidently labor and the gentlemen are not agreed. There is another group that would like to overturn our present social order and confiscate the coal mines like the coal mines in Russia have been confiscated. Surely, the gentlemen of the Affirmative do not belong to that group.

FIRST NEGATIVE REBUTTAL

Henry Ponitz, Chicago

The gentlemen of the Affirmative this evening must assume a double burden of proof. They must on the one hand meet the charges of the Negative, namely: that government ownership and operation is impracticable in the face of an overloaded Congress and an antagonistic public; that it stagnates the coal industry and intensifies waste; that it is not needed to stabilize the coal supply; that it provokes labor unrest; and that it means the exploitation of the consuming public. On the other hand they must show that gov-

ernment ownership and operation is preferable to a broad nationalized policy of cooperation and regulation.

We are not concerned with ultimates this evening, for ultimate solutions depends on ultimate conditions. We must face the conditions as they are to-day, and our solution, therefore, must be the next immediate step forward.

The gentlemen of the Affirmative advocate a proposal without modern American precedent; a proposal with negligible support; a proposal antagonized by a deep and well founded prejudice of the American public. In contrast with this the Negative stands for a broad nationalized policy of cooperation and regulation whose principles have been applied in the Interstate Commerce Commission, the Federal Trade Commission, the Federal Reserve Board, in foreign trade and in labor unions; a policy advocated by Dr. Van Hise, George Otis Smith and Theodore Roosevelt; a policy advocated by economists, operators, labor leaders and the dominant political parties; a policy practicable at the present time under present conditions.

The gentlemen of the Affirmative, thru government ownership and operation, would stagnate the coal industry and intensify waste. For the management of the mines would be thrown into the hands of a political administration with its so-called long view considerably obstructed by the next presidential election; thrown into the hands of the most wasteful agency in existence; thrown into the hands of an agency devoid of that driving power, personal interest; thrown into the hands of an agency clogged with bureaucratic methods and Red Tape. In contrast with this the Negative stands for a broad nationalized policy of cooperation and regulation which eliminates cut throat competition; which retains that direct personal interest, and which is today developing the power plants on which true conservation depends.

Now exactly what do our leading conservationists say on the subject? I have in my hand a book entitled "The Foundations of National Prosperity." On pages 208, 209 and258 Dr. Leith, professor of Geology in the University of Wisconsin makes the following statements: "The most obviously helpful step possible to the government in the immediate future is to permit cooperative arrangements under private ownership, making it possible to use common selling

agencies, thereby reducing the cost of selling, to divide the territory to be served, thereby avoiding excessive cross freights, to allow the output to be proportioned to the demand for certain territories, thus eliminating excessive competition and overproduction, all of which could be accomplished without detriment to the public if properly regulated by the government thru the Federal Trades Commission. The enormous saving possible by this means would allow of the introduction of conservational methods at the mines without raising the cost to the public.

"There is a question whether the government can fully supply the deficiency caused by the elimination of private competition and initiative. If there is any element of doubt as to the ability of the government to do the work as well as private interest, the gain for conservation, which would be brought about by acquiring government ownership, does not seem to be sufficiently certain or large to require so drastic a step on the part of the nation. Regulated cooperation seems to promise better results."

It is on this program, backed by the best conservationists of the country that we of the Negative stand this evening. A broad nationalized policy of cooperation and regulation, whereby there would be cooperation among the operators, followed by federal regulation with an Interstate Coal Commission as an agency of that regulation.

SECOND NEGATIVE REBUTTAL

Harold Lasswell, Chicago

For the fifth and last time in this debate we challenge our opponents to meet the issue of impracticability. They propose a policy with scattered support, and against which the people of this country cherish a deep and well founded prejudice; the Negative stands for a nationalized policy of cooperation and regulation with precedents in the Interstate Commerce Commission and the Federal Reserve Board, and with the backing of Van Hise, Smith, and the leading students of the problem. We leave it to you which is the more practicable step forward.

In response to the charge that government ownership

means the stagnation of the coal industry and the intensification of waste, we are told that we stand for a great private monopoly. Contrast the two policies. Under government ownership and operation, when the hoisting machinery of the Big Indian Creek Mine breaks down, the superintendent cannot ask "What is best to do under these circumstances"? —He must find what he is allowed to do. Turning in his swivel chair to the voluminous compilations of the rules and regulations covering the duties and obligations of the mining superintendents revised at the accession of the current administration to power, he pulls down volume nine, turns to page 5789, column two, paragraph six and *may* find that in emergency 6359 he is to communicate with his regional director. Immediately the wires get busy and the reply finally comes "This is to inform you that this will be given our prompt and respectful attention. We beg to remain your humble and obedient servant, John B. Blank, per Mary Jones." Meanwhile the emergency continues. Under our policy the local superintendent has complete freedom in adjusting local conditions, and cooperation is permitted only where it is needed in marketing. The choice is between an overcentralized governmental monopoly, and local autonomy in production and cooperation in distribution.

In reply to the charge that government ownership is not needed to stabilize the coal industry, one gentleman has assured us that it is needed. Would he place his own *ipse dixit* over against the conclusion of Lesher, chief statistician of the Geological Survey, and of Holmes, former head of the Bureau of Mines when they point out that the easiest way to keep the mines going in summer is by methods possible without ownership and operation? Our policy of Cooperation and Regulation stabilizes the coal industry without assuming the tremendous burdens of buying and operating the mines.

The Affirmative has painted a truly horrible picture of conditions in the coal industry because of the irregular employment of labor. But, once more, a nationalized policy of cooperation and regulation relieves this situation just as much as would government ownership, and without assuming the additional evils of ownership and operation. As Lesher and Parker point out, the means of stabilizing the industry are not a monopoly of ownership and operation.

And we are assured that the government will give the laborers a greater interest in the industry. Now just exactly what do the gentlemen mean by that? Do they believe that the knowledge that he is a government employee is going to make the miner's pick any lighter, or the coal any more breakable, or the mine gas smell any sweeter, or cause him to go thru the intellectual cogitations of the Affirmative that "I'm working for the government; the government is the people; I'm part of the people; therefore I'm working for myself"? This pet conceit of our closet philosophers is hardly bourne out by the facts. As Samuel O. Dunn has pointed out, the output of many of our railroad repair shops slumped from 100% to 500% in spite of the tremendous incentive of national peril when they were under government control. Our policy retains the discipline of private industry.

The Affirmative have been silent on the point that government operation actually provokes labor unrest by political combination to perpetuate squeezable administrations, and that the worker is forced to the strike in conservation. They have not shown us how they will handle the strike. Do they intend to deny labor the right to strike? They know only too well that, as in the case of the railroads, labor simply will not stand for any such proposition. Will they give labor the right to strike, and thus place a million employees of the government in a privileged position in the government service? What is their attitude on this matter? Our policy of cooperation and regulation sets up a commission to keep the facts of the industry available at all times, and retains the government as a third party to bring the parties to an agreement on those facts.

How are the gentlemen going to meet the vastly increased cost of labor and materials under government enterprise? They have told us of the enormous profits of the industry—neglecting the fact that in normal times the average profits are only one percent of the mining costs of coal. We come out squarely on the platform that not only are these "private profits" but they are social profits as well, because they are the guarantees of progressive and improved methods. The coal industry is no longer a routine industry: it is in a period of tremendous development of electrical power plants, briquetting plants, mining machin-

ery and by products. It must not be subjected to the deadening routine of an administrative hierarchy. Of course profiteering must be done away with in this as in every other industry: but when the banks were profiteering, when the railroads were profiteering, we did not subject them to direct operation, but to regulation. And this is exactly the policy we stand for this evening.

The Affirmative has been unable to meet the charges made against ownership and operation: that government ownership and operation is impracticable, that it means intensification of waste, that it is not needed to stabilize, that it provokes labor unrest, that it exploits the consuming public, and that cooperation and regulation is preferable to it. If the gentlemen have the answers to these charges locked within their bosoms they owe it to their cause to bring them forth.

THIRD NEGATIVE REBUTTAL

Thomas McCollough, Chicago

The issues in this debate have been clearly stated. The Affirmative must assume a double burden of proof. In the first place they must meet the charges which the Negative have made against government ownership and operation of the coal mines. In the second place, it is incumbent on the Affirmative to show that government ownership and operation is preferable to regulated cooperation.

Throughout this debate the gentlemen of the Affirmative have failed to answer the five serious indictments which we have made against their plan. They have five minutes left and within that time it will be absolutely impossible for them to reply to these arguments. They are charges which the greatest students of the coal problem have made against government ownership and operation after a life-time of study and reflection, and the gentlemen will be unable to meet them with the five minutes at their disposal.

What have they had to say about regulated cooperation? Judging by the criticisms which the gentlemen are able to bring forward our plan is indeed the panacea in the coal situation. First, they tell us that regulation has already

failed. Ladies and Gentlemen, we made it clear long ago that the United States Government had only regulated incidently under its war powers and through the enforcement of the anti-trust laws. The states have regulated the coal industry and we propose that the national government come to the rescue on matters of general concern.

Again, they tell us the plan is impracticable. We reply that one of its chief merits is its practicability and ease in operation. Such an academic criticism coming from the gentlemen who have failed to show the practicability of their own plan is strange indeed. Regulated cooperation will be simple in operation, will work out through mutual agreements, economic laws and easy supervision by the Coal Commission.

This disposes of the only two charges which they have been able to advance against our plan of regulated cooperation.

Let me remind you, Ladies and Gentlemen, that this plan takes care of coal problems before us. It stabilizes production, employment, prices and meets the labor situation in the most enlightened way. The gentlemen of the Affirmative are after efficient public service. That is also our goal but we dare not travel the road of government ownership and operation to reach it. Our whole industrial system is built upon another principle. Through the driving power of private profits and private enterprise, along with adequate government supervision and regulation, we obtain the most efficient public service.

Let me place before you at this time the essential characteristics of the two plans.

Our plan puts new life into the coal industry through cooperation and the retention of personal interest. Their plan stagnates the coal industry in a period of expansion and intensifies waste by a political administration afraid of experiment, clogged with routine and red tape, and devoid of personal interest. We stabilize the industry through cooperation, economic laws, retention of local initiative and proper supervision. They try to stabilize the industry by establishing an all-extensive bureaucratic administration with all power radiating from above, and with the destruction of all local autonomy. We aid stabilization by differ-

ential freight rate, a sliding scale of prices, and publicity during the spring and summer.

They assume the colossal burden of buying the mines, emplying the United Mine Workers of America, choosing their all-extensive, bureaucratic administration and then come back to these same agencies to accomplish their purpose.

Our plan meets the labor situation. It means collective bargaining. It means conciliating and minimizing the strike situation.

Their plan actually provokes labor unrest. It means squeezing the liberal administration and coming to open warfare with the conservative one. It means an aggravation of the strike menace. We protect the consuming public because we reduce the cost of production, the cost of distribution and therefore the price and keep the government as a representative of the public in the time of crisis.

Their plan means the exploitation of the consuming public. It means increased cost through inefficiency, contract grabs, extra political employees, higher labor, waste and a desertion of the public in the time of a crisis.

We retain private property and private profits, the forces that have made us great in an industrial way: the forces that have carried us into the markets of the world and made us the masters of world trade.

Their plan abolishes private property and private enterprise and gives us state socialism. Ladies and Gentlemen, which plan do you prefer?

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CHAPTER II

THE CUMMINS PLAN FOR THE CONTROL OF RAILROADS

UNIVERSITY OF IOWA

RESOLVED: *That the Cummins plan for the control of railroads should be enacted into law.*

The speeches here presented are those of the debating teams of the University of Iowa in the annual debates of the "I. M. I." League consisting of the state universities of Iowa, Minnesota, and Illinois. Each Affirmative team debated on the home floor. The Iowa debates, both constructive and rebuttal, as presented here were written after the debates had been held, each debater reproducing as nearly as possible what he had said in debate. At the close of the Iowa-Minnesota debate at Minneapolis, members of the audience were given an opportunity to address questions to any of the debaters or to express their own views upon the question under consideration. A very interesting discussion took place and suggested a method for eliminating the formality of intercollegiate debating. These speeches were secured thru Glenn N. Merry, of the Department of Public Speaking, University of Iowa.

BRIEF

THE CUMMINS PLAN FOR THE CONTROL OF RAILROADS

AFFIRMATIVE

I. INTRODUCTION:

A. The American people are absolutely dependent upon the continuous operation of our railway system.

B. Certain evils exist in our transportation system which may be classified as follows:

1. Decentralization: the American railroads are divided into some several hundred systems and are owned by some 2,900 companies.
2. Financial difficulties: When the railroads were taken over by the U. S. Government in 1917, the bankrupt roads were carrying thirty per cent of our freight and passenger traffic.
3. Lack of power and authority on the part of the Interstate Commerce Commission:
   a. The commission lacks authority in many instances.
   b. The duties of the Commission are so numerous that it cannot deal with all the problems as they arise.
4. Failure to insure continuous operation because of unsettled labor conditions.

II. The Cummins Plan for the control of railroads should be enacted into law, because,

A. This plan will eliminate the evil of decentralization, for,

1. This Bill provides for a consolidation of all the railroads in the United States into not less than twenty nor more than thirty-five competitive systems.

B. The Cummins plan will guarantee a fair return to the railroad investor, thereby solving the financial problems, for,
   1. It divides the country into rate districts.
   2. It provides for a rate in each district which will make possible an annual income of five and one-half per cent upon the total amount of property invested.
   3. It provides for a contingent fund into which excess profits will be paid and be held for emergencies.

C. The Cummins plan extends the power and authority of the Interstate Commerce Commission, for,
   1. It gives the Commission power to make rates in the various districts based upon cost of operation.
   2. It creates new boards and committees to assist the Commission.

D. The Cummins plan will secure the maximum continuity of service, for,
   1. It prohibits combination for the purpose of restraining transportation on the part of the,
      a. Railway owners.
      b. Employees.

III. The Cummins plan is merely an application of business principles to the railway industry in that

A. It removes the evils of decentralization by consolidating the roads into not less than twenty nor more than thirty-five competitive systems.

B. It meets the financial difficulties by guaranteeing adequate returns upon investments.

C. It enables the Interstate Commerce Commission to deal with the various problems as they arise, by extending the powers of that body, and by creating new boards and commissions to assist it.

D. It prohibits all combination created for the purpose of preventing uninterrupted service and thus guarantees the maximum continuity of service to the public.

NEGATIVE

I. Introduction:

A. The plan adopted for the control of the railroads must

1. Insure railway credit.

2. Secure co-operation between the railway owners and their employees.

II. Resolved that the Cummins Bill for the control of railroads should not be enacted into law, because,

A. It fails to eliminate the evils which exist in our transportation system, because,

1. The Cummins Bill does not insure railway credit, for,

a. Even the provision for an annual 5½% return upon the total investment in each district is not an absolute guaranty.

b. It makes no provision for the weak roads which do not earn 5½ per cent.

c. It confiscates profits in good years, but makes no provision for the deficit in bad years.

d. Immediate investments will not be made because of the uncertainty which will exist during the seven year period of consolidation.

1. Expenditures of $1,500,000,000 must be made annually.

2. The consolidation, upon which the plan depends, cannot be secured, for,

a. Strong roads will not voluntarily unite with the weak roads.

b. The Government cannot compel the strong roads to purchase the weak ones.

3. It defeats co-operation between the railway owners and the employees by creating antagonism on the part of the employees, for,

a. All the employees are opposed to the anti-strike provision.

B. A more desirable solution can be secured, because,
   1. Financial consolidation under a Federal Holding Company will secure the benefits of a property consolidation and does not involve the difficulties of such consolidation.
   2. An absolute guaranty of an annual return of four per cent upon investments will stabilize railway credits.
   3. Profit sharing will secure co-operation of the railway employees.

III. Conclusion:
   A. The Cummins plan fails to insure railway credit, while the plan of the Negative insures such credit by an absolute guaranteed return of four per cent.
   B. The Cummins plan is dependent upon a property consolidation which cannot be secured, while the plan of the Negative provides for a financial consolidation which can be secured, and which will secure the benefits of a property consolidation.
   C. The Cummins plan antagonizes the employees by an anti-strike provision, while the plan of the Negative secures the co-operation of the employees by a profit sharing plan.

THE CUMMINS PLAN FOR THE CONTROL OF RAILROADS

UNIVERSITY OF IOWA

AFFIRMATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY OF ILLINOIS, IOWA CITY, IOWA, DECEMBER 12, 1919

FIRST AFFIRMATIVE

Harold Sandy, Iowa

The question that we are here to discuss is, Resolved: "That the Cummins railroad plan should be enacted into law". The Cummins plan has recently taken the form of the Cummins Bill, which Mr. Cummins introduced into the Senate of the United States on the 22nd day of October, 1919. This Bill contains forty-nine sections and is written on ninety-six pages. It is obvious then, at the very outset, that the debate this evening should be confined to the general principles outlined in the Cummins plan. It would be unfair in the time that is allotted, to both the Negative and Affirmative, to draw any issues from the minor details of the Cummins Bill. We are asking the gentlemen of the opposition, at the very beginning of this debate to-night, to confine their argument to the general principles of government regulation as provided by the Cummins Bill.

A sub-committee of the Committee on Interstate Commerce, of the United States Senate, was appointed to consider the railroad problem. After making a thorough investigation, this committee made the assertion that any plan which may be adopted to handle the present railroad situation must solve four big problems. These are the four problems:—First, the problem of consolidation; Second, the financial problem; Third, the problem of increasing the

power of the Interstate Commerce Commission, and of giving it additional committees to aid in its work; Fourth, the problem of securing a guaranteed continuity of service. Throughout the debate to-night, Friends, we are asking you to keep in mind that whatever plans may be suggested by either the Affirmative or the Negative should not be adopted unless they solve these four problems.

The railroads of this country are the property of 2,905 companies, which are organized into several hundred systems, some of which are large and some of which are small. Under these conditions it has been impossible in the past, to secure adequate service, and, at the same time to maintain any uniform schedule of rates for any particular locality. A rate which guaranteed a reasonable return to some roads actually forced others into bankruptcy, and the Interstate Commerce Commission, in spite of the fact that it has adopted some of the wisest policies that any commission could adopt has been absolutely unable to establish rate schedules which have been fair to both the large and small systems. When the Government took over the roads it was convinced that the railroads of the country, taken as a whole, were making as much money as they should be allowed to earn, yet these earnings were so distributed that the smaller roads of the country, which were carrying thirty per cent of the nation's traffic, were unable to sustain themselves. These smaller roads are absolutely essential to our economical welfare and must be maintained. This, then, is the first problem that has to be solved.

In considering the second, that of financing the roads, we can not lose sight of the fact that, as long as we are to have private ownership, there must be provided a constant inflow of capital. In a few months it will be necessary for the roads of the United States to raise immense sums to meet existing obligations. Furthermore, extensions are necessary and improvements of all kinds must be made which call for a large amount of capital. The money which is needed can be obtained only from those people who have money to invest, and investment is purely voluntary. The only way to get money into this field is to assure the investor of a reasonable return upon the investment which he makes. Certainly existing conditions do not make any such

assurance. An investigation was made a short time ago of 198 of the largest roads of the country. It was found that thus far in the year 1919, 74 of these companies had not taken in sufficient operating receipts to pay their current operating expenses. Twenty-eight roads failed to earn enough money to pay the taxes assessed against their property. For these companies railroad operations did not net a single cent toward the payment of the interest on bonds. Very conservative estimates have been made by railroad experts to the effect that a billion and half dollars will be needed each year for the next ten years to make the necessary improvements. How will it be possible to raise a billion and a half dollars each year for ten years when the roads are not able to pay even the interest on their bonded debt? This is the financial problem.

The third problem is one with which we are all more or less familiar. In the past, the Interstate Commerce Commission has been unable to cope with the questions which arise before it without delay in making decisions. It has not had sufficient power and has not been able to use the powers, which it has, to good advantage. Over regulation on the part of the states and insufficient regulation by the Federal Government has partially paralyzed our transportation systems. The elimination of this condition is the third problem which must be solved.

The fourth problem, the last one, but by no means the least important, is that of guaranteeing continuous service. The economic development of the country has been of such a nature, and, the people are so situated, that every man, woman and child is absolutely dependent upon the railroads of the nation. The lives and health of all of us depend directly upon securing continuity of service of the railroads. If there should be a suspension in the movement of traffic for only a few days thousands of people would freeze to death and thousands would starve to death. A railroad strike would mean that in three days New York City would be on the verge of starvation, and if it should continue for one month, one-half of the population would die, and the loss would be greater than the loss of any conceivable war. Yet we are subject to such strikes any month and any week in the year. This was demonstrated in the summer of 1916

when four hundred thousand workmen threatened to stop work. If this strike had occurred it would have tied up the traffic of the entire nation. The only thing that averted it was the anactment of the Adamson Law. This condition of uncertainty in operation must be alleviated.

Friends, please keep in mind that any plan, which will adequately deal with the present railroad situation, must solve these four problems which have just been presented. Very briefly, again, they are: First, the problem of consolidation; Second, the financial problem; Third, the problem of increasing the power of the Interstate Commerce Commission; and, Fourth, the problem of securing a guaranteed continuity of service.

To meet these four problems, we of the Affirmative to-night are advocating the Cummins plan. It has been said that the Cummins plan is written on 96 pages and contains 49 sections, but in it there are outlined four big principles of government regulation. Briefly, the Cummins plan provides, first, for consolidation of all the systems of the United States into not less than twenty and not more than thirty-five large systems. In the second place, it provides for a return which will be fair to the present security owners and which will encourage future investment in the railroad industry. In the third place, it gives increased powers to the Interstate Commerce Commission and creates additional boards and committees to aid this Commission. In the fourth place, it prohibits combination for restraint of transportation.

It is the purpose of the Affirmative to-night to apply these four principles of regulation to the four existing problems, and to show that such application will place the railroads of the United States on a sound business basis.

SECOND AFFIRMATIVE

Eugene Murray, Iowa

The first speaker has given you some idea of the magnitude of the railroad problem, and has pointed out the problems that must be solved, namely, that of decentralization:

of financial instability; lack of power and authority on the part of the Interstate Commerce Commission; and of the failure to give continuity of service.

I will endeavor to show you how the first two problems will be solved by the Cummins Bill.

The decentralization that now exists in the roads at the present time points clearly to the need of some plan of consolidation. Such consolidation is provided for in the Cummins Bill.

The plan is simply this. The some two hundred systems now organized are to be reduced to not less than twenty nor more than thirty-five systems. The plan of division is to be decided on by the Transportation Board, consisting of five members who are to be appointed by the President with the consent of the Senate, two of whom are to be appointed for two years, two for three years, and one for four years. Upon its organization, the Board shall work out the plan of consolidation, which plan shall be published, and objections may be filed and hearing provided for. During a time limit of seven years the roads are allowed to voluntarily consolidate, obtaining at the time the approval of the Interstate Commerce Commission, whose aim it is to see that the strong roads are united with the weak roads so that when the consolidation is complete, there will be one great railroad system consisting of some thirty roads of equal strength.

Two or more systems are allowed to consolidate according to the provisions of section twelve of the Bill. The corporation so formed must be organized as a federal corporation, issuing stock and bonds which shall not exceed the value of the consolidated properties and working capital. The valuation of the roads has been provided for by the Act of March 1, 1913.

Upon the application of the roads desiring consolidation, the matter shall be referred to the Transportation Board who shall conduct a public hearing at which the railways involved and the authorities of the several states in which the property is located shall be present. If the hearing is approved by the Interstate Commerce Commission it shall permit the consolidation in spite of any conflicting state law.

A period of seven years is allowed the roads in which to voluntarily comply with the terms of the plan, and if at the end of that time the consolidation is not completed, the government will make such recommendation as it sees fit, and if the remaining roads fail to comply, the Bill authorizes the government to buy them. The Board will pay for them on the basis of the actual property included in the roads, and will allow an appeal to the federal courts by parties who are dissatisfied with the Board's decision.

This assures the public that the plan will finally be adopted for the railroads will be forced into the dilemma of either voluntarily consolidating or of witnessing a purchase by the government, or the regime of government ownership which is distasteful to most railroad men. Upon a vote taken under the auspices of the railroad managers of this country it was found that over 99% of them were opposed to government ownership. It can be seen that this plan takes into account the needs of the nation as a whole, knowing that the public cannot be served most economically and efficiently under a system of private ownership, where there is no guarantee of cooperation between the roads whose sole object should be the service of the public and not the making of profits for a small class—the investors.

A brief review of the success of the War Board plan adopted at the beginning of the war will give you some idea of the success that can be obtained under a plan of consolidation as it is involved in the Cummins Bill. The War Board was strictly a private organization made up of the railroad managers of the country, who pooled their interests as far as the handling of freight was concerned. Under this plan, with an increase of one-half of one percent of locomotives in service, over sixteen percent more business was done in May 1917 than in May 1916. Under an agreement by which all tidewater coal was pooled at the ports of New York, Philadelphia and Hampton Roads, there was a saving, it is estimated, of 133,000 cars. During the first four months of the Board's operation, car shortage was reduced 70%, and by the elimination of passenger trains not essential to the most pressing needs of the nation, approximately 20,000,000 miles of train service were saved.

These figures clearly give you some idea of the savings as accomplished by the War Board, a private organization, and show the probabilities in a comprehensive and all embracing plan,—the Cummins Bill.

When this plan of consolidation has been completed, the railroads of this country will be divided into some thirty systems of equal strength operating under the direction of a general efficiency board, known as the Transportation Board, and an Interstate Commerce Commission who shall look out for the needs of the nation as a whole, aided by District Boards who shall present the needs of the particular localities. When this has been accomplished, one of the most vital problems in the railroad control, namely, that of decentralization will have been solved.

In the second place the Cummins plan will give financial stability to the roads. The securing of this financial stability is inherent in the plan and is secured through the consolidation that I have just explained. As a result the wastes common to a highly competitive system will be avoided, and, in their place will be substituted the gains made through efficient operation secured through this co-operation.

The investor will have his money invested in one of thirty systems of equal strength, after the present distinction between weak and strong roads has been removed. The United States is to be divided into rate districts according to the similarity of traffic and transportation conditions. The rate in each district must be just and reasonable in order to secure a just return on the aggregate property in each district. For the present, this amount is to be 5½%, this amount to be adjusted every five years. The Commission has the power to modify or change the rates in a particular rate district, and any person interested in the roads may make complaints thereon to the commission.

The integrity and the stability of the railroads as a great business enterprise will be secured through the consolidation. The number of competing systems will be reduced from some two hundred to some thirty under the direction of a Federal Transportation Board. Wastes will be avoided. Cooperation between systems formally separate and competitive will mean greater efficiency. This alone will be a guarantee to the stockholders of a fair return on their

money invested. But in addition to this there is to be a regulation of rates so as to guarantee a fair return on the capital invested, making no discrimination between the various stock-holders as at the present when some are receiving large returns and others are losing money every day.

This plan will provide for the present investors in the roads and will induce others to enter. At the present time there are some two hundred systems, some strong and some weak, some making large returns on their capital, and others losing money every day. And when we consider that the railroads are a public necessity that they should be at the service of the public in every district of the country as far as is practicable, that capital cannot be induced to invest in roads usually insolvent which form part of this system, we must conclude that a part of the public must suffer. Figures show that the roads of the country carrying thirty per-cent of the traffic in 1918 were unable to pay the interest on their bonded debts. To allow this state of affairs to exist means the jeopardizing of many of the roads, by making it impossible for the weak roads to obtain the capital necessary to maintain their upkeep.

This inability to secure the necessary finances has been reflected in the failure of the roads to secure the additional traffic facilities as the increased traffic demanded it. The Interstate Commerce Commission reported in 1905 that the traffic of the country had increased 110% while the facilities for handling it had increased only 20%. Equipment showed a marked decline in 1915, and in that year less mileage was built than in any year since 1864. This situation has been well brought out in the report of the Interstate Commerce Commission when it said that no new railroad stock had been placed on the New York stock exchange in 1916, signifying that the financing was done through the issuance of short time notes.

The investor of the future, as well as the investor of the present, must be induced into the railroad business. It is estimated by the president of the Interstate Commerce Commission that at least a half a billion dollars a year will have to be expended by the roads in their upkeep. If the roads are not placed on a sound business basis and operated on

business principles, the capital that is absolutely essential to their upkeep will not be forth coming.

There is but one conclusion to be drawn from this situation. The roads of this country cannot remain divided into some two-hundred systems, partly strong and partly weak. There must be a reorganization founded on sound business principles. The Cummins plan clearly recognizes this fact, and knows that its solution can only come on sound business principles. Consequently it does not provide an out and out guarantee of a certain return of the capital invested, but there is to be an all embracing plan of consolidation, eliminating the weak roads and the wastes common to a highly competitive system in a business that is essentially a public monopoly, and securing to the investor the benefits, by providing for him a more secure place in which to place his money.

As a result capital will be induced into the railroad business and because of the security, the roads will be able to get money at much lower rates of interest, reducing the expense of operation. Finally one strong national transportation system will be formed and operated on sound business principles, making it possible to pay the investor a fair return on his money without any need of a guarantee from the government. This will solve the second problem in connection with the railroad problem—that of financial instability.

So far I have attempted to show you how the Cummins plan will eliminate the decentralization that now exists in the railroads of the nation, by its provisions for the consolidation of the roads into one great transportation system, consisting of some thirty systems of equal strength, and secondly, it will place the roads on a sound business basis, making them an attractive field for the investing public, and thereby removing the second evil—that of financial instability.

THIRD AFFIRMATIVE

Jacob Van Ek, Iowa

In supporting the Cummins plan for the control of the railroads, the first speaker for the Affirmative has briefly

outlined to you the magnitude of the problem before us and has enumerated the several evils existing in our transportation system at the present time. He has presented the Cummins plan, embodied in the Cummins Bill as consisting in the main; of four fundamental principles. In his conclusion he has suggested that, by the application of these principles to the railroads, these evils would be eradicated with the result that the transportation system of our country would be placed on a sound business basis.

The second speaker for the Affirmative has dealt in detail with the workings of the first two principles in the Cummins plan, viz., the provision for consolidation and the provision for returns to capital that are fair to present security owners and will be sufficient to attract additional capital. He has shown that by the application of these provisions the process of eliminating the evils from our transportation system and the placing of our railroads on a sound business basis would be commenced.

It shall be our further purpose to explain the operation of the two remaining principles, the provision for the extension of the powers of the Interstate Commerce Commission and the creation of additional boards and tribunals to aid that body, and the provision for the prohibition of combinations for the purpose of restraint of transportation. We shall endeavor to show that, by the application of these two remaining principles to the railroads, the process of eliminating the evils and placing our railroads on a sound business basis would be complete.

The third general principle of the Cummins plan is, as we have stated, the extension of the powers of the Interstate Commerce Commission and the creation of a number of additional boards and tribunals to aid that body. Where the Interstate Commerce Commission is particularly handicapped under the old and present system of railroad operation is in its method of rate making. Ever since its creation this Commission has enjoyed the power of making rates only for interstate commerce as a whole. Under the plan which we advocate the country will be divided into a number of districts according to the conditions of the locality as they affect transportation. The Interstate Commerce Commission then, shall have power to determine rates for each of

these districts in accordance with the conditions existing in that locality. This is, indeed, a forward step in ratemaking for it realizes the economic law that the price of a service rendered must at least be equal to the cost of production of that service including a reasonable return on the capital concerned. For example, let us take two railroads. One of them is operating in a mountainous district where the cost of keeping up the road bed is very great and most expensive equipment is required. The other railroad operates in a prairie district where the cost of upkeep of road bed and equipment is much less. According to the plan which we advocate the Interstate Commerce Commission shall allow the former railroad to charge greater rates than the latter. And, friends, is it not obvious that it is according to the principles of good business to have the road which must incur the greater expense to render a service be allowed to charge the greater rate? Thus the extension of the ratemaking power of the Interstate Commerce Commission does much to place the railroads on a sound business basis.

Much is also done to accomplish this result by the creation of additional boards and tribunals to aid the Interstate Commerce Commission. The first of these agencies is the National Transportation Board which, as we shall attempt to show, is nothing more nor less than an efficiency manager of the railroad systems of the nation. In the past a great hindrance to efficiency in the railroad business has been the prohibition of certain acts by our statutes, particularly by the Sherman Acts. Mr. Blewett Lee in the *Michigan Law Review* for May 1918, says in this respect that, "A natural and wholesome economic process which would be to the advantage of the people of the whole country has been balked and practically brought to an end by the application to the railroads of what are popularly known as the Sherman anti-trust laws of the several states. These statutes were based upon the idea that the principles of competition applicable to business generally govern also in the case of the railroads, wholly over-looking the essentially monopolistic character of the railroad business." As a result of such laws, pooling of equipment, interchange of freight and other similar acts of co-operation among companies were prohibited and made the ob-

jects of punishment even when a substantial saving would have resulted and a more efficient service would have been rendered to the public if these things had been done. Under the Cummins plan it is the duty of the National Transportation Board to bring about such actions among the several railroad systems and in general to compel such acts as will benefit the public and give greater efficiency to the railroads. Besides this Board, there are created three regional boards and a Committee on Wages and Working Conditions. At present, one of the greatest drawbacks to efficiency in business generally, is the lack of co-operation between laborers and employers. It is the duty of these several boards, composed equally of representatives from employers and employees, to create a spirit of keenest co-operation between the laborers and those who employ them. In the words of the Cummins Bill, "The regional boards shall have jurisdiction over the settlement of all complaints, grievances, matters and disputes, including question of discipline, and controversies arising in ordinary railway operations other than disputes relative to wages and working conditions over which the Committee on Wages and Working Conditions has jurisdiction." It is in this manner that our plan aims, by securing co-operation, first between the several systems of carriers under direction of the Transportation Board, and, secondly, by securing co-operation between laborers and their employers, through the work of the regional boards and the Committee on Wages and Working Conditions, to have the railroads operated in the most efficient manner and give the best possible service to the public.

These then are the agencies which will control the railroads under the plan which we propose. Now, throughout the entire Negative argument thus far presented much stress has been placed upon the fact that they regard the Cummins plan as merely a modification of the present government operation. From this they reason that if this plan is adopted our transportation system will be operated more efficiently than it has been since the government took it over as a war measure because as a business man the government has failed. That government operation of rail-

roads has failed we shall not attempt to deny, and thus if the Negative's statement, that the Cummins Plan is merely a modification of the present government operation, is true there is little hope for our plan. Let us see however, if the stand of the Negative will bear analysis. In the first place under our plan there is at the head of the controlling agency the Interstate Commerce Commission. This Commission was in existence and exercised its authority long before the government took over the railroads and surely the gentlemen of the Negative will not maintain that prior to our entrance into the war our railroads were "government operated". They have based their contention on the fact that the Transportation Board and Regional Boards with the Committee on Wages and Working Conditions have been created. Let us then see how these agencies are constituted. The Bill provides that the Transportation Board shall consist of five members appointed by the President of the United States with the advice and consent of the Senate. The men on this Board may not own stocks in railroads and must therefore be men who can render impartial judgment because they are not particularly interested in the railroads in a personal way. Rather they are from the public and indeed they should be, for as we have said, the Transportation Board is the efficiency manager of the railroads. The Regional Boards and the Committee on Wages and Working Conditions are appointed to bring about co-operation between employers and employees. These agencies are composed equally of representatives from laborers and employees. The Cummins Bill requires that the Regional Board shall be composed of six members—three from laborers and three from employers—and also that the Committee on Wages and Working Conditions shall be composed of eight members—four from laborers and four from employers. In each case we have the controlling agencies made up of members from those groups who are vitally concerned in the problems which they must solve. The gentlemen of the Negative have maintained that wages would be fixed "by the government" and, in fact, that all problems should be solved "by the government". When we see how these functions are per-

formed by agencies composed of representatives from those most vitally concerned it becomes plain that they are decided by those persons themselves. Thus it is very difficult to see by what process of reasoning the Negative can deduce that such a system as is embodied in the Cummins plan means government operation as we are having now. Indeed it is merely a system of government regulation as we have known in the past modified to make for greater efficiency of our transportation service.

It still remains for us to consider one principle of the Cummins plan and to show what part its application to the railroad industry will play in placing our railroads on a sound business basis. This principle is embodied in the provision that prohibits combinations for the purpose of restraint of transportation. There is no industry existing in our country today, upon the continuity of which, as great a number of individuals are so directly and vitally dependent as there are upon the continued operation of the railroads, and for this reason a plan of railroad operation must needs embody a provision to insure against interruption in that service. This has been recognized for some time and thus many restrictions have been placed upon capital for this purpose. Our plan recognized these restrictions under the direction of the Interstate Commerce Commission and the Transportation Board. But in view of present conditions our plan extends those provisions to include *any* two or more persons combining for the purpose of restraining transportation whether those persons belong to the class of employers or the laborers. Due to the fact that in the past many such combinations have resulted from disputes concerning wages and working conditions and the fact that such disputes are likely to continue in the future, our plan makes provision for another way of settling these differences besides a method that involves restraining transportation. There is created a Committee on Wages and Working Conditions composed of an equal number of representatives from capital and labor whose sole purpose it is to hear and settle disputes relative to wages and working conditions. In making such settlements the committee must take into consideration:—first,

the scale of wages paid for similar kinds of work in other industries; second, the relation between wages and cost of living; third, the hazards of the employment; fourth, the training and skill required; fifth, the degree of responsibility; and sixth, the character and regularity of the employment.

These factors include all those which any settlement of such disputes can take into consideration, and will indeed be more satisfactory as to results obtained, than the results obtained by the methods heretofore employed for making such settlements. Through the adoption of this system we shall have secured an uninterrupted service in our transportation system, upon the continuity of which every individual is more or less directly dependent and thus the process of placing the railroads on a sound business basis will be completed.

Finally, to summarize the case for the Affirmative: we have advocated the Cummins Plan for the control of the railroads. We have shown that there are at present four outstanding evils in our transportation system: first, decentralization due to the existence of several hundred systems; second, inadequate returns to capital resulting in bankruptcy of the roads carrying thirty percent of the traffic; third, lack of power and authority of the Interstate Commerce Commission; and fourth, the failure to guarantee continued operation of the railroads. The Cummins Plan embodies four principles, which if applied to the railroads would result in an eradication of the evils and the placing of the railroads on a sound business basis. By the provision for consolidation the decentralization will be done away with. The garantee of adequate returns to capital will eliminate the financial difficulties; by the extension of powers of the Interstate Commerce Commission and the creation of additional boards and tribunals to aid that body, the evil of lack of power and authority of the Interstate Commerce Commission will be remedied; and finally we shall be guaranteed a continued operation of the railroads through the prohibition of combinations in restraint of transportation.

FIRST AFFIRMATIVE REBUTTAL

Harold Sandy, Iowa

The last speaker for the Negative has told you that the debate this evening had been reduced to one issue:—private operation vs. government operation. They have based their entire case upon the contention that the Cummins plan is a form of government operation. We of the Affirmative have pointed out that this plan is not government operation. Let me make this point clear once and for all. Government operation calls for either one of two conditions: Government ownership, or rent of the roads by the Government. If, under the Cummins plan the Government should own the railroads, the Gentlemen of the opposition might well argue that the Cummins plan means government operation, or, if under this plan the Government payed a certain fixed sum for the use of the railroads, they might correctly say that it was a plan of government operation. Clearly and obviously under the Cummins plan the Government does not own the railroads, neither does it rent them. Throughout the debate the Negative have failed to realize that the Cummins plan is nothing more or less than a plan of government control of privately owned and privately operated roads.

As first speaker of the Affirmative, I attempted to show that the railroad situation of today presents four problems. A sub-committee of the Committee on Interstate Commerce of the United States Senate made a statement to the effect that any adequate plan of handling the present railway situation must solve these problems. In the face of this fact and in spite of all that has been said by the Affirmative, the Gentlemen of the opposition have completely ignored these problems. Why? Because in endeavoring to make out a case against the Cummins plan they have presented an alternative plan, the Esch Bill, which does *not* solve these problems.

Let us consider the first problem, that of consolidation. We have pointed out that the Cummins plan brings all of the railroads of the country into not less than twenty

and not more than thirty-five large and efficient systems. The Esch Bill, presented as an alternative by the Negative fails to consider this big problem of consolidation. It provides for voluntary consolidation only. The whole idea of consolidation is the placing of the small and weak roads on the same level as the strong, to make all roads equally strong. Under the plan of the Negative no provision is made for the weak roads. No doubt, some of the large roads would consolidate but the weak roads would be left in the same position as they are now. It would take wonderful imaginative power to conceive a solution of the decentralization by the adoption of the Esch Bill. We would remind the Gentlemen of the opposition that, in order to destroy the case of the Affirmative, they must show that the Cummins plan will not solve the four big problems which have been strongly emphasized throughout the debate. Thus far in the debate they have failed to do so.

SECOND AFFIRMATIVE REBUTTAL

Eugene Murray, Iowa

The Negative have offered the Esch Bill as an alternative in solution of the railroad question Before going into the discussion of this bill I would like to make it clear that the four problems as set out in our constructive argument must be solved. These problems are the following: first, the problem of decentralization that now exists in the roads at the present time, second, the lack of financial stability, third, the lack of power and authority on the part of the Interstate Commerce Commission, and lastly, the failure to secure continuity of service. These problems must be solved or the alternative plan of the Negative will fail.

In the first place, let us see if the Esch Bill will secure the consolidation that is so badly needed at the present time. A close examination of the Bill shows that accomplishment of the consolidation is strictly a voluntary duty on the part of the roads. But will consolidation ever be completed under such a plan? Looking into the financial

strength of the roads of this country we find that there are some that are strong and some that are weak, some are making high returns on their capital and others are losing money every day. Figures show that in 1918 the roads carrying thirty percent of the traffic of the country were unable to pay the interest on their bonded debt. Under such a voluntary plan how many of the strong roads of this country will take over the weak and the insolvent roads? It is evident that the practical result would be a consolidation of the strong with the strong, and the insolvent roads would remain unconsolidated. But such a result would deny to the country as a whole, the transportation system that it needs. Many parts of the country would be without the proper railroad facilities, because of the insolvency of the roads through that particular place. Capital could not be induced to invest in such property, and as a result the necessary finances requisite to the upkeep of the roads would be lacking. If the Negative will admit that the railroads are a public necessity they cannot consistently argue in favor of this bill. They must admit that it will fall down at the outset, and fail to overcome the first problem, namely that of decentralization.

The Cummins Bill which we of the Affirmative are upholding allows the roads a period of seven years in which to consolidate, and if the consolidation is not completed the government will take such steps as it deems expedient so as to complete it. Consequently the nation will be assured that consolidation will be completed, after which time the railroads of this country will be divided into some thirty systems all of equal strength and operating under a centralized head.

Secondly will such a Bill, that will fail to secure this consolidation, be able to remove the financial instability that now exists? The answer on the face of it is "no". Any plan that leaves the country with strong roads and with weak ones cannot induce capital to invest in the weak. It is true capital will invest in the strong but when it comes to the weak the plan fails. Capital will not invest in insolvent roads. Any fool would not do this. How then can you expect experienced and shrewd investors to? You cannot expect them to and they will not. The result is that

the roads of the nation as a whole will not have the proper financial stability.

The Cummins Bill by its provisions for consolidation will finally unite the roads of the nation into some thirty systems of equal strength for the consolidation is to be under the supervision of the Interstate Commerce Commission who will aim to unite the weak with the strong. Then the investor will be able to invest his money in any one of the roads with absolute confidence, for the railroads will be placed on sound business basis, and one of the greatest business enterprises will be established, offering the investor a big inducement to invest his money in railroad property. The plan will overcome the second evil in the railroads existing at the present time—that of financial instability, which the Esch Bill fails to do.

In concluding I have attempted to show how the Esch Bill, as proposed by the Negative, will not solve the problems which they have admitted must be solved in the railroads at this time. Consolidation will not be solved in view of the fact that the country is made up of weak and strong roads, under which conditions any voluntary plan of consolidation will fail.

THIRD AFFIRMATIVE REBUTTAL

Jacob Van Ek, Iowa

Throughout this entire debate, we of the Affirmative have maintained that any plan of railroad control, if it is to function properly must remedy the evils existing in our transportation at the present time. These evils are: (1) decentralization, (2) financial difficulties leading to the bankruptcy of the roads carrying thirty percent of the traffic, (3) lack of power and authority of the Interstate Commerce Commission, and (4) the failure to guarantee continued operation of our railroads.

To eradicate these evils we have advanced the Cummins plan while the gentlemen of the Negative have advanced the Esch plan. It then remains to see which of these plans will solve these difficulties.

The plan proposed by the Negative contains no provision for consolidation and will therefore not solve the first problem of decentralization, whereas the Cummins Plan provides that, after a certain length of time, the several systems of railroads shall be consolidated into not less than twenty nor more than thirty-five systems of equal strength. Because the Negative plan does not consolidate the weak and the strong roads it fails to remedy the second evil, viz., that of financial difficulties, causing the roads carrying thirty percent of the traffic to become insolvent. Their plan leaves the weak and the strong roads. Some are able to pay extremely high dividends and others unable to pay any. It is only natural that the roads which are unable to pay dividends will not attract capital. Since such roads carry thirty percent of our traffic the plan of the Negative must be rejected on this account, for it fails to take into consideration our entire transportation system, when as by the adoption of the Cummins plan, there will be from twenty to thirty systems of equal strength and capable of commanding dividends sufficient to attract capital. Because the plan of the Negative leaves the controlling agencies substantially the same as they were before the government took over the railroads, it also fails on the third count, viz., to remedy the present evil of lack of power and authority of the Interstate Commerce Commission, which evil our plan remedies by extending the powers of that body and creating additional boards and tribunals to aid it.

The objection which seems most vital to the Cummins Plan from the Negative standpoint as advanced in this debate is the fact that it prohibits combinations for the purpose of restraining transportation, or rather it prohibits strikes. It is objected to because it cannot be enforced and as a substitute for this provision the gentlemen of the Negative advance the system in use in Canada. This system provides an arbitration board and prohibits laborers from striking for thirty days while the arbitration board makes investigations and renders its decision. If the laborers are not satisfied with this decision they are are at liberty to strike. We ask, friends, what is the difference in principle between this system and the one which we advocate? To settle disputes that might cause strikes the Negative plan

creates an arbitration board, while the plan of the Affirmative creates a Committee on Wages and Working Conditions. So far the two systems are clearly identical in principle. Both plans prohibit strikes—the Negative plan prohibits them for thirty days and the Affirmative plan prohibits them for any number of days. It is here that the plan of the Negative fails because it leaves the strike as a last resort. Friends, in an industry upon the continuity of which the lives and health of all the members of the state are directly dependent, there must not be a possibility for those employed in that industry to strike. If railroads were to be tied up for only the short space of a few months, more than half the people in the greater centers of population would die, to say nothing of the untold loss in property and unconceivable misery that would result. It is a primary duty of the government to protect the lives, property and happiness of the citizens of the state and this is what our government would do by railroad control. But the gentlemen of the Negative object to our plan because they say we cannot enforce a law to prohibit strikes. It hardly seems to be consistent that they should object to our plan on those grounds for they too prohibit strikes. How are the gentlemen of the Negative going to enforce the law of their plan which prohibits strikes for thirty days? If strikes can be prohibited for thirty days can they not be prohibited for thirty-one, thirty-two, or for any number of days? But after all, the railroad employees are for the most part law-abiding citizens and the authority of the law, simply because it was law, would prohibit the laborers from striking. And after all why should they violate this law when another method, a method based on reason and justice, is provided to settle the disputes which were formerly settled by strikes.

In closing this debate, allow us to remind you that there are four evils existing in our transportation system at the present time and a plan of railroad control if it is to function properly must eliminate these evils. We have shown how the plan proposed by the Negative fails to do this while the Cummins plan through its four principles: (1) the provision for consolidation, will eliminate the evil of decentralization; (2) the guarantee of returns to capital that are fair to present security holders and will be sufficient to attract

capital in the future, will solve the financial difficulties; (3) the extension of power of the Interstate Commerce Commission and creation of additional boards and tribunals to aid that body will solve the difficulty of the present lack of power and authority of the Interstate Commerce Commission; (4) and finally, by prohibiting combinations for the purpose of restraint of transportation, we shall be guaranteed the continued operation of our railroads. For these reasons, we maintain that the Cummins Plan for the control of the railroads should be adopted.

Negative Speeches in Debate Against the University of Minnesota, Minneapolis, Minn., December 11, 1919

FIRST NEGATIVE

George Killinger, Iowa

The first speaker of the evening has presented the railroad problems which confront the nation. Having these problems in mind, the first thing to determine is the fundamental principles which we must adopt to solve the several aspects of the question, which this great problem presents, and then to apply such machinery as will be adaptable to these principles. Whatever solution of these problems is adopted, it is fundamentally important that the principle underlying the solution of each problem is that of securing efficient and adequate transportation to the American public at the lowest cost consistent with due regard for the interests of the investors and the employees. Any plan which fails in any of these particulars fails to solve the railroad problem in its deficient aspects, which must be admitted by the Affirmative to be:

First, lack of credit and investments, or financial instability;
Second, decentralization;
Third, restricted powers of the controlling bodies;
Fourth, lack of co-operation between capital and labor.

The question then is—does the Cummins plan offer a satisfactory solution of these problems?

In opening the constructive argument for the Negative, it shall be my purpose to show that the Cummins plan does not

deal effectively with the financial problems, and, therefore must necessarily fail in the first instance, because it will not insure a fair income to the present investor nor a return sufficient to attract future investors to the railway field.

Now, as to the present investor. The Cummins plan is nothing more nor less than a bolstering up of the old system. At the present time securities are forced below par because of the weakness of railway credit. Does the Cummins plan establish the credit of the railroads? Let us see. The low credit of the railroads under the old system was due to uncertainty of railway stocks, made so by regulations of the Interstate Commerce Commission, which forced down the rates or kept them down, thus decreasing their earnings and consequently lessened the possibilities of return upon stock.

The Affirmative cannot be aware of contemporary facts when they make the statement that under their plan they will alleviate this condition by insuring a return of 5½% to the investor, by so regulating rates as to obtain such a reasonable return. Mr. Cummins states in his report from the Committee of Interstate Commerce of the Senate, on November 10 of this year, that in the test period from 1914 to 1917, the net annual operating income of Class I. railways was 5.2% and that under that average the Pennsylvania Railway Co. earned 6.26% on the aggregate capital investment account. Of what significance is this fact? Within the past six years, according to the assistant executive of the Pennsylvania Railroad, they have been unable to sell any new stock upon the market. Would the Cummins plan solve this problem by giving a smaller return than the 6.26% to the Pennsylvania Railroads?

When railroads cannot sell new stock in order to finance their roads, they must resort to the sale of bonds and by so doing they decrease the margin of safety for preservation of financial integrity, which results in a still greater decrease in credit and forces them to the verge of bankruptcy. Lockwood Barr, associated with James Oliphant & Co., of New York, sums up the situation very well in the following words:

"A relatively large capital and a relatively small funded debt means relatively low fixed charges. A financial policy, whereby stock is sold to provide funds for corporate purposes instead of bonds only, promotes a large partnership interest which is itself the best guarantee of prudent management

and further leads to relatively low fixed charges. Low fixed charges mean a relatively large margin of safety in earnings for the preservation of the financial integrity of the company. A large margin of safety in earnings means high credit." The history of the financial wrecks of the past few years indicates that the downfall has been due principally to the enormous amounts of bonds in proportion to the amount of stock outstanding. What other recourse has a road like the Pennsylvania when they are unable to sell new stock, but to issue bonds? How then can the Cummins plan establish the railway credit? Will the Cummins plan insure the preservation and integrity of the present investors' stock? Clearly, Gentlemen, each of these questions must be answered in the negative.

Let us look at the present investor from another angle to determine whether the Cummins plan is *fair* to the present security holders. According to the assistant executive of one of the leading roads, there are thirty million holders of insurance policies and ten million holders in savings banks who have $1,500,000,000 invested indirectly in railroad securities. There are 2,000,000 investors directly interested in railroad stock. No one doubts that the saving banks should pay interest on the deposits or money or that the insurance policy holder should realize the benefit of his policy, although Mr. Festus Wade of St. Louis Mercantile Trust Co. had occasion to testify that the banks of the United States have lost $125,000,000 by depreciation of railway securities in the last nine years. Why should we penalize the investor who invests directly in railroad stock? Yet this is exactly what the Cummins plan proposes to do, for we find that in the good years Mr. Cummins would take from the stockholder what has been earned upon the fixed reasonable rates, while in the bad year he would let the stockholder suffer from the risk incident to the investment. The Pennsylvania Railroad furnishes a good example of what injustice would be wrought, with 90,000 stockholders, 10,000 of whom hold 10 shares or less. In other words, a large portion of railway securities is represented by savings and hard earned wages, where the investor has invested directly in railway stock. Dare we penalize such investors by depriving them of a return upon the fruits of their earnings from reasonable rates in a good year and deny them a fair return when times are bad? As

Mr. Lee states in one of his articles, under "such a policy the railroads of the country will palsy and shrivel."

Thus far we have considered only the present investor, but this is not all—the crash comes when we consider the prospects for future investments. According to Mr. Cummins in his report from the Senate Commission, on November 10, it was found under Federal Control that railroads carrying 30% of the traffic were earning so little that they could not by economy or good management sustain themselves. Mr. Charles Baker, consulting editor of the *Engineering News Record,* states that on a basis of the aggregate investment of the railways two years ago, they earned but 2% in the first six months of this year. Mr. Alfred Thorn said in testifying before the Commission in the Senate that the needs of future extensions would require $1,500,000,000 per year for the next ten years. It is a fact that new capital invested has decreased from year to year. In 1910 the new capital invested amounted to $778,000,000; in 1914, $584,000,000; in 1916, $268,000,000. Mr. Dunn, editor of the *Railroad Age,* from whom these figures are quoted, attributes the decline to failure to make adequate return on investment. What incentive does the Cummins plan offer the new investor? As Mr. Evans points out in *The Chronicle* on October 25, the public will not invest in new railroad stock for a *possible* return of 6%, if the profits of success will be taken from them. Money needed for our railways will go into private enterprises where the reward of success is greatest. But our railroads must have money and they must *have it now.*

The Cummins plan provides for a seven year period of consolidation—this means that the stock market will be more uncertain than ever and the investor will be more reluctant than ever to invest in railway securities before the consolidation is complete. The Cummins plan attempts to solve our present financial problems by machinery to become effective in operation seven years hence. What principle may we ask the gentlemen of the Affirmative, underlies the adoption of such machinery to meet the needs of the present?

In conclusion, we of the Negative contend that any plan offered as a solution of the railway problem must be founded upon principles that will insure efficient and adequate trans-

portation to the public at the lowest cost consistent with due regard to the investors and the employees. It has been my purpose to show that the Cummins plan fails in the first instance, in that it does not attract future investors to the railway field, and in particular that it will not secure the much needed capital at the present time because of the seven year period which is to elapse before a definite railroad policy is established.

SECOND NEGATIVE

William S. Anderson, Iowa

We of the Negative heartily agree with the gentlemen of the Affirmative that any plan for the solution of the railway problem must provide some means for securing capital for the roads when they are restored to private ownership. Furthermore we agree that the roads must have this capital immediately upon their being taken over by the private owners. The question is will the Cummins plan secure this needed capital? We of the Negative maintain that this plan will not secure capital, in time to satisfy the immediate needs of the roads. This Cummins plan will not, according to its provisions, be put into complete operation until seven years after the same becomes law. It necessarily follows that the practicability of the plan cannot be accurately tested for at least seven years. Hence the investors who have in the past been skeptical as to the value in railroad investments and who are not at this time disposed to invest further in railroad properties will not be led at once to invest in railroad stocks. The situation so far as the securing of capital is concerned demands a plan that will become effective at once. The Cummins plan fails to meet the needs of the situation because it will not become effective in seven years.

It shall be our further purpose, in continuing the argument for the Negative to show that the plan advocated by the gentlemen of the Affirmative is unsound because it fails to secure an adequate plan of consolidation and the cooperation of labor and capital.

In the first place let us consider the point of consolidation. The Cummins plan provides for the consolidation of the property interests of the railroads. We are not ready to concede that this is the proper form that consolidation should take. But leaving that point out of consideration for the moment, it shall be my purpose to show that under the provisions of the Cummins Bill not even the property consolidation, upon which the whole plan is based, can be secured.

Section 9 of the Bill provides that all the existing railroads and railroad systems, some 2900 in number, shall be merged into not less than 20 nor more than 35 systems. The consolidation is to be carried on so that when it is completed the several systems shall have comparatively the same strength. This means that the weak roads must be combined with the strong roads. The report of the subcommittee which drafted the Cummins Bill indicates that this is the method to be followed.

Now how will the strong roads be induced to consolidate with the weaker roads? It has always been against the policy of the strong and efficient roads to purchase a weak road for the simple reason that the weak roads were money losers and no sound business institution desires to burden itself with a money losing proposition. There are no grounds for assuming that the strong roads are any more favorably disposed towards taking over weak roads than they ever were. As Samuel Rea, President of the Pennsylvania System, points out in his article in the November issue of the Annals of the American Academy of Political and Social Science, "The strong roads are not favorably disposed towards taking over any more weak roads". The significant part of the statement made by such an authority is that it was made with reference to the Cummins Bill. This statement simply goes to show that at the very outset this proposed consolidation of the weak with the strong is going to meet with the opposition of the strong roads. For this reason the provisions for voluntary consolidation, during the first seven years after the plan goes into effect, are going to prove practically useless. Strong roads might voluntarily consolidate with

strong roads, but strong roads will not voluntarily consolidate with weak roads.

The author of the Cummins Plan realizing that voluntary consolidation would not prove effective has provided for a form of consolidation through government purchase. As the purchase is to be effected by the Transportation Board and as this Board is an instrumentality of the government such purchase would be practically government purchase. Now the use of such a method we contend would either prove futile or undesirable.

In the first place the Board according to Section 13 of the Bill is going to depend upon appropriation by Congress for its funds. If Congress does not see fit to appropriate the money necessary for the purchase of these weak, inefficient, and money losing roads, the Board will have no means for carrying the plan of consolidation into effect. There is no guarantee whatsoever that Congress will appropriate enough funds for the Board to make any headway at all. In fact a reasonable inference would be that Congress will not be disposed to appropriate funds for the purchase of properties that are known to be money losing propositions.

But granting that Congress will hand over the money whenever the Board asks for it, this plan of consolidation through purchase by the government would result in undesirable situations. The plan provides that after the roads have been purchased they shall be leased or sold to the stronger roads. But as we have already pointed out the strong roads have always been and are today opposed to taking over any more weak roads. There are no reasons for assuming that the strong railroad corporations will purchase or lease weaker roads from the government any more readily than they would have done without the interference of the Transportation Board. Strong roads might voluntarily merge with strong roads, but strong roads will not voluntarily merge with weak roads. The fact that it is the Transportation Board that is offering these roads for sale will make no essential difference.

Then once the Transportation Board has these roads upon its hands and cannot dispose of them readily, it has

two alternatives. The use of either of these will result in an undesirable situation. The Board can use one alternative and dispose of the roads at sacrificial prices. But we contend that this is too big a price to pay for consolidation. It is too much to ask that the Treasury of the United States be depleted in order for the Transportation Board to make a success of consolidation. The sale of the weak roads at sacrificial prices by the Transportation Board would certainly be undesirable.

The only other alternative by the government is operation of these roads. But in that event we would have practically government ownership and operation of the weak roads of the country. The Affirmative agree with us that government ownership and operation is bad at any time. Would it not be doubly worse if that ownership and operation were of the weak roads alone. The Government would be holding the sack for the strong corporations.

The Cummins plan is unsound because voluntary consolidation would not prove effective. The strong roads will not voluntarily merge with the weak roads. And in the second place this plan is unsound because the plan of forced consolidation by the government would result either in the sale of the roads at terms sacrificial to the best interests of the country or in government ownership and operation of the weak roads, either situation being undesirable.

The Cummins plan is undesirable for the further reason that it does not provide for cooperation between labor and capital. The Negative contend and the Affirmative do not disagree with us that any effective solution of the railway problem must secure cooperation between labor and capital. The Cummins plan will not secure this cooperation, but upon the other hand it contains a provision that will create dissension between labor and capital. We refer to the anti-strike clause. Now the Negative do not want to go upon record as saying that this anti-strike provision could not be enforced. Neither are we attempting to justify strikes. But assuming that strikes should be made unlawful and that an anti-strike provison could be enforced to the letter, will the incorporation of this anti-strike clause into a railroad measure at this time secure co-

operation between railroad labor and capital? Obviously "no", for labor at this time is directly antagonistic to anti-strike legislation. Let such a provision be incorporated into law and labor will become antagonistic at once. We contend that co-operation between labor and capital cannot be secured by the enactment of legislation that will antagonize labor.

In conclusion then, Ladies and Gentlemen, we maintain that the Cummins plan is unsound because it fails to provide an adequate form of consolidation and will not secure the co-operation of labor and capital. We have shown that voluntary consolidation will prove ineffective because the strong roads will not take over the weaker roads. The method of securing consolidation through government purchase will result either in the sale or lease of the roads at sacrificial prices or in outright government ownership of the weaker roads, either situation being undesirable. Furthermore we have shown that the Cummins plan will not secure co-operation between labor and capital because of the anti-strike provision. For these reasons we maintain that the Cummins Bill should not be enacted into law.

THIRD NEGATIVE

Earl W. Wells, Iowa

It is my purpose to present an alternative plan. The Negative feel, as a principle of debating, the burden of advocating some means of solving the railroad problem; but recognize the impossibility of proposing any one of the half a hundred plans that have been advanced. The House has passed the Esch Bill, and the Senate will probably pass some other bill; but the plan that will ultimately be adopted by Congress, will, undoubtedly, be one evolved by a joint committee, after a thorough digest of various plans and a selection of the best principles of all. We are agreed with the Affirmative on private operation. Therefore, the Negative tonight are merely presenting a few fundamental principles, already suggested through various plans which we believe are essential in any plan of private operation.

Under a system of private operation, we maintain that the first big principle that should be involved in any plan, is that of financial consolidation. All roads must be put on a sound financial basis. Nearly all plans favor consolidation more or less. The Cummins plan attempts to secure it. But it is not a consolidation of systems that we need. It is a financial consolidation of all the roads. This we propose to secure through the creation of a Federal Holding Company, which shall have a Board of 24 directors, half to be selected from the public; and the other half to consist of six men, chosen by the operators, and six, by the employees. Some plans favor a less number. That is a mere detail. The material feature is that the representation of capital and labor on the Board shall be equal. This Federal Holding Company shall call in all the present existing railroad stock, in place of which, the Company will issue certificates of preferred stock in the Federal Company. The new stock shall assume as its value the present earning value of the stock for which it is exchanged. The Holding Company's Board will assume all the administrative functions of the Interstate Commerce Commission, shall have the rate-making power, and shall have supreme control of all the railroads, although every road is to continue to operate as a separate road. Each road will turn over to the Federal Holding Company its net income; that is, gross earnings, minus operating expenses and a sum sufficient to cover depreciation, but no sum to cover the interest on bonds. Out of the money turned over, the Federal Holding Company will pay, first, the interest on all bonds of all the railroads, and, then a guaranteed dividend of 4% on all stock. The remainder after deducting a small percentage for a reserve, shall be distributed, as profits, to the various companies, according to their respective net incomes. The profits to an individual road shall be apportioned between the stock holders and labor, in a manner prescribed by the Federal Holding Company. Thus, by allowing the various companies to operate separately and receive profits in proportion to their net incomes, full competition will be maintained, and an incentive will be retained for each road to give the best service possible. As to rates, let them be regional, just as

in the Cummins plan; but they should not be fixed by the Interstate Commerce Commissioners, who, as public officials, have in the past been more solicitous of the public's good will than desirous of securing just rates. With rates fixed by the directors of the Federal Holding Company, half of whom are public men and half men with interests in the roads, the interest of all parties will be secured. The Cummins plan allows the Interstate Commerce Commission to annul discrepancies in *interstate rates,* but for the sake of utility, we should go further and divest the states of all power to fix rates.

Thus, we have all the roads financially consolidated with a fixed rate on all stock, yet allowing competition full sway, by letting profits accrue to every road, according to its net income; and with rates fixed by the same body that controls the finances and operation of the roads.

The second principle that must be included in any successful plan, is that of a guaranteed minimum return,—an actual dollars and cents guarantee—in case the net income of a road is not sufficient to pay returns. Numerous plans involve the principle of an absolute guarantee, among which are the Warburg plan, the Morawetz plan, and the plan of the Associated Industries of Massachusetts. Now, with all stock emanating from a Federal Holding Company, as preferred stock, which, like bonds, pays a certain return and which return must be paid just as interest on bonds, every stockholder will be as certain of a minimum return on his investment as a bondholder is sure of his interest. The Affirmative may say that their plan guarantees a return by the assumption that rates will be adequate. But, even with fair rates, a certain road may have a bad year. Yet the Affirmative says to that road, if it makes 10% in a successful year, "You shall have only 6% even though you paid no dividends the year before". Could there be a more flagrant confiscation of property? Can Mr. Cummins expect to attract capital with his plan, which limits the returns and guarantees nothing?

The only way to make railroad stock a good investment and attractive to capital, is to guarantee a minimum return and allow additional profits, according as they are deserved, as determined by a road's respective income, the

only limit being reasonable rates. There cannot be unreasonable returns from reasonable rates.

The third important principle that should be incorporated into any solution, is that of profit-sharing with labor and participation of labor in the management of the roads. No sane man can fail to recognize the importance of co-operative employees. Mr. Cummins himself wishes this, but the needed co-operation cannot be obtained by the mere establishment of a wage board, which is only a tantalizing recognition of labor's rights and whose possible benefits are completely offset by the drastic proposition of making it a crime to strike. The railroad unions are steadfastly opposed to a return to private operation unless given a share in the management and return of the roads. As previously mentioned, the Negative would have labor's representation on the directing Board of the Federal Holding Company equal to that of capital. This would insure as much consideration for the employees as for the stockholders and operators, and would give labor an equal voice in the management of the roads. Furthermore, we have provided that the profits accruing to each road after a guaranteed return has been paid to all the roads, shall be divided between the stockholders and employees, in a manner prescribed by the Federal Holding Company. Profit-sharing is involved in many plans, and it is significant to note that it is proposed in the plan of the Investors Protective Association and that of the Owners of Railroad Securities.

With labor sharing in the management and profits, its hearty co-operation will be secured, and there will be no need of Mr. Cummins' strike prohibition, which is the one thing that will kill, in an instant, every desire of labor to co-operate.

In conclusion, Ladies and Gentlemen, let me say, we have opposed the Cummins Bill, not on details, but squarely on principles. We have shown how it fails to put the roads on a sound financial basis, because it involves the obviously unfair proposition of limiting returns and guaranteeing nothing, thereby driving away new capital at a time when it is most needed. We have shown how it defeats its own purpose, by failing to secure the consolidation, up-

on which the operation of the whole plan rests. We have shown how it not only fails to secure the co-operation of labor, but further alienates the interest of labor in the welfare of the roads. On the other hand, we have laid down three fundamental principles that must be involved in any successful plan: first, the financial consolidation of all the railroads, under the control of a single Federal Holding Company, yet allowing all roads to operate competitively and to reap profits, according to their net incomes; second, an absolute guarantee of a minimum return on every dollar's worth of railroad stock, before a single cent of profit is allowed; and third, the equal participation of labor in the management of the railroads and a just share in the profits. None of these three principles are involved in the Cummins Bill, and therefore it should not be enacted into law.

FIRST NEGATIVE REBUTTAL

George Killinger, Iowa

The gentlemen of the Affirmative outlined the many railroad problems in a most satisfactory manner. We of the Negative are agreed as to the many problems to be dealt with and the solution which is to be adopted, but we contend that the Cummins plan is not the most desirable plan available, for we maintain, that in any solution of the railroad problem, the first thing to determine is the fundamental principles which we must adopt to solve the several aspects of the problem and then to apply the machinery to it.

The issue then in this debate is upon principles, and we would ask the gentlemen of the Affirmative what principle underlies their policy of taking the profits from those who fairly earn them under the *fixed and just rates?* Is it possible that they can maintain that the railroads can earn unfair returns from *fair rates* as provided by other sections of the Bill? We would ask them what principle warrants the adoption of a plan of consolidation which is infeasible in adoption and which will force many railroads to the wall at the expense of the public, as the second speaker of the Negative has pointed out?

How can they justify the adoption of Section 31 which prohibits the employees from employing organized action and sets them back where they were twenty-five years ago—at the mercy of the employer?

The propositions are of vital importance in the solution of the major railroad problems. It is perfectly clear that the Cummins plan is void of principle upon these major issues and thus far the Affirmative have been at a loss as to how they would support such principles.

As to the question handed to us by the last speaker of the Negative, which reads as follows: "How will the plan of the Negative secure the capital necessary for immediate and future investments upon the guaranteed return of four per cent?" may I refer the gentlemen to the December issue of the *North American Review* where Mr. Baker, a good authority on railroad credit, states that if a guaranteed return is assured the investor it would be possible to get more capital than is necessary to finance the railroads at 4 and 4½%. Thus you see that under the plan which we have proposed—by a guaranteed return, the great financial difficulty is alleviated.

Now, let us contrast the major provisions of Mr. Cummins' plan with our counter-proposition in order to be able to size up the situation in its entirety.

In the first place, we have shown that their financial provisions are inadequate and unsound because they are unfair to present investors in that they confiscate their fair earnings and force some roads into receiverships, and because they will not attract capital into the railroad field on account of the small return which it is possible to earn, and at the same time assuming the risk, for the period of consolidation stretching over seven years. On the other hand in the plan proposed by us this evening, these difficulties are eliminated by a guaranteed return and a possibility of earning more than the guaranteed return, such guaranty to take effect immediately.

In the second place the Cummins plan does not provide a feasible plan for consolidation as the second speaker of the Negative has outlined, because of the fact that it involves physical consolidation which is out of the question. On the other hand by our plan of financial consolidation it is possi-

ble to attain the same results— i. e., to insure public service and the financial integrity of the weak as well as the strong roads.

In the third place and lastly, the Cummins plan does not offer a satisfactory solution of the labor problem because it creates antagonism and strife between capital and labor, anticipating disputes but leaving the employees at the mercy of the employer,—to deal with him severally. Our plan in this instance creates co-operation and friendship between employer and employee—all working for mutual and common interest. For these reasons, we contend that the Cummins plan should not be enacted into law.

SECOND NEGATIVE REBUTTAL.

William S. Anderson, Iowa

We agreed with the gentlemen of the Affirmative at the outset of this debate that the prime need of the railroads is new capital. The minute that the government releases its control and the roads are placed back under private management and ownership, new capital will be needed in order to insure efficient service to the public. So far the Affirmative have not shown how this new capital can be secured in adequate amounts. We have already pointed out that the Cummins plan will not become practically effective for seven years after the same is enacted into law. It will take seven years to consolidate the roads and the effectiveness of the plan cannot under any consideration, be tested until that consolidation shall be completed. Investors are not going to invest in railroad securities until they are assured that a practicable plan for railroad operation has been worked out. Experience has shown us that investors have not looked with favor upon railroad securities due to the uncertainty of the situation. They will not invest to any extent in railroad securities until they are assured that the situation is such that a reasonable return will be paid on those securities. Now the Cummins plan, in providing that there will be seven years given over to consolidation, is in reality providing for seven years of uncertainty so far as the investors are

concerned. What is needed is a plan that will go into effect at once, so that new investments will be made in order to provide for the new capital that will be necessary when the roads are released by the government.

The Affirmative have attempted to show that the need for this new capital will be met under the Cummins plan by the use of the contingent fund. But, there can be no contigent fund until consolidation shall have been completed. According to the provisions of the Bill it will take seven years to complete that consolidation. Even if the contingent fund could be used to furnish capital to the roads, there can be no use of such a fund until the same shall have been provided. There will not possibly be such a fund for seven years after the plan has been enacted into law. The railroads need the new capital immediately. The contingent fund cannot possibly be used as a source for this new capital. So far, then, in this debate the gentlemen of the Affirmative have not satisfactorily shown how the Cummins Bill would provide for the new capital which the railroads need.

Now the plan which we of the Negative have proposed goes into operation at once. By the use of this plan the period of uncertainty would be eliminated. New capital may be attracted immediately and the prime need of the railroads will be met.

The Cummins plan depends entirely, so far as it will succeed or fail, upon whether the property consolidation can be secured. We have pointed out in our constructive speeches how this form of consolidation cannot be secured. The strong roads will not merge with the weaker roads voluntarily. It has always been against the policy of the efficient systems to burden themselves with the weak and run down roads. The Northwestern would not take over a bankrupt road like the Rock Island for the operation of the latter would be a drain upon the treasury of the former. Strong roads might voluntarily consolidate with strong roads, but strong roads will not voluntarily consolidate with weak roads. Furthermore, we have shown that the plan of forced consolidation through the purchase by the Transportation Board will bring disastrous results. The strong corporations will not purchase the weaker roads any more readily from the Board than they would before the

Board intervened and purchased those weak roads. All the power of our government could not compel a railroad to merge with another by purchase. The Northwestern could not be compelled to purchase or lease the Rock Island if the former was indisposed to do so. The Transportation Board may force the weaker roads to sell out to the Board, but it cannot compel any road to buy those weak roads.

Consolidation through purchase by the Board would result either in the sale or lease of those weak roads at sacrificial prices, or in government ownership and operation of those weak roads, either situation being undesirable.

Now the plan which the last speaker for the Negative proposed, in the constructive argument as an alternative plan, provided for a form of financial consolidation. This form of consolidation as previously shown can be secured advantageously. According to this plan all the roads in the country shall pool their interests in one large Holdings Company. The profits of this holdings company shall be shared by the roads in proportion to the interest in the company. This form of financial consolidation, as distinguished from property consolidation, does not involve the problem of the weak and the strong roads. Under financial consolidation the weak roads would be protected and yet at the same time there would be no demand made upon the strong roads to purchase or lease the weaker roads.

The Affirmative have misinterpreted us with regard to our stand upon the anti-strike clause. Let us make it very plain at this point that we do not say that an anti-strike clause could not be enforced, nor are we attempting to justify strikes. What we are contending is that the anti-strikes clause will not secure co-operation between labor and capital. Labor is antagonistic at this time to antistrike legislation. To incorporate such a clause into a railroad bill would only serve to stir up dissension between labor and capital. We of the Negative are opposed to strikes to the same degree that the Affirmative are. We do not believe that strikes can be prevented and co-operation secured by the enactment of an anti-strike clause. We on the other hand have provided for measures which will secure co-operation and thereby prevent strikes. Our alternative plan, as presented, contains provisions for giving labor a participation in the

control and management of the railroad properties. This plan provides that the railroad laborers shall have a share in the division of the profits. Our plan has in it provisions which will secure co-operation or at least tend to secure co-operation. The Cummins plan has no provisions to secure co-operation, but has in its anti-strike clause a provision that is destined to defeat co-operation. Our plan is based upon the idea of preventing strikes by securing co-operation. The Cummins plan is not based upon the idea of co-operation, having incorporated within it the anti-strike clause which in itself prevents co-operation.

Since the Cummins Bill does not provide any means whereby new capital may be secured, does not provide an adequate plan of consolidation, and will not secure co-operation between labor and capital, we of the Negative, contend that the same should not be enacted into law.

THIRD NEGATIVE REBUTTAL

Earl W. Wells, Iowa

The debate has simmered down to three important and vital issues. The first of these issues is—shall we adopt the plan of property consolidation, as provided for in the Cummins Bill, or shall we adopt the Negative plan of financial consolidation. Now, as to the plan of property consolidation, advocated by the Affirmative, our second speaker has shown that this very consolidation, upon which the success of the whole plan rests, can never be secured, because it depends ultimately upon voluntary action by the various railroad systems; and we have shown that this voluntary consolidation upon the part of the railroads, cannot be obtained. But looking at it merely from the standpoint of principle, what are the benefits to be derived from, their plan of property consolidation? By reducing all the railroads into thirty-five systems, they would obtain the joint use of terminals, the joint use of facilities, and the joint use of other railroad property. Now, as a matter of fact, all of these benefits could be secured by simply abolishing the Sherman anti-trust law and the anti-pooling acts. This is

proven by the fact that, just before the roads were taken over by the Government, a voluntary board of different railroad managers was formed, for the purpose of consolidating the properties of the roads. This board had great success, but its success was due to the fact that it violated the Sherman anti-trust law and the anti-pooling laws, the board knowing that such violations would be permitted, because of the exigencies of the war.

On the other hand, our plan provides for the financial consolidation of all roads into a single Federal Holding Company, which Company will not only have complete control of the finances of all the roads, but will have power to force co-operation amongst the various roads, and, thus secure all the benefits of property consolidation. The Affirmative plan, by reducing the roads to thirty-five large systems, would kill local competition; and it is upon local roads where competition is needed to procure better service, and not upon the big lines which maintain good service, irrespective of competition. Thus, we see Ladies and Gentlemen, that the plan of the Negative, in addition to securing a much needed financial consolidation of all of the roads under one head, also secures all the benefits of property conconsolidation, that the Cummins Bill will secure, without its defects.

The Affirmative have attempted to charge us with advocating government ownership. Our plan is further away from government ownership than the Cummins Bill. Under our plan, the only part that the Government will have in the control of the railroads, will be through the public's representation of the directing board of the Federal Holding Company, which will not be a government agency.

The second vital issue in this debate, is how to secure adequate returns to investors,—through the Cummins plan or through our plan. The Affirmative plan merely provides, that the Interstate Commerce Commission shall establish rates, that will allow an adequate return to all the roads; but in the past the Interstate Commerce Commission has had this power, and has failed to fix adequate rates. The Cummins Bill fixes an adequate return at 5½%, and limits the returns to this figure; but the best and most prosperous roads have bad years. This is proven by statistics.

For instance, the Baltimore and Ohio made 7% in one year and 2% in another and the Northwestern, 10% in one year and only 4% in another year. Now, will the Cummins plan allow a road in a good year to make up for its loss in a bad year? No! It allows a road to make only what it can in a bad year, and limits its return to 5½% in a good year. True, there is a contingent fund provided for in the Cummins Bill, but this cannot be used to pay dividends; and the chances for such a fund to accrue are very small.

The Negative's plan provides for adequate rates; and places the rate-making power with the directing Board of the Federal Holding Company, which will be composed mostly of men, who will have a personal interest in seeing that the returns are adequate. In addition to providing for adequate returns, our plan guarantees a dividend of 4½, while the Cummins Bill limits returns to 5½%, but this is an erroneous conception of our plan. Understand, Ladies and Gentlemen, that we merely provide, that all stockholders shall be first given a return of 4%, and, after this, profits will go to the stockholders of the various railroads, according to their net incomes. Also, the question to-day is one of procuring capital at once. The Cummins plan at its best, cannot secure capital until the seven years have elapsed, during which time its plan of consolidation is to be carried out; and railroad owners say to-day that the roads must have $7,000,000,000 additional capital to put the roads in good shape. Our plan, by providing a guaranteed return, with no limitation, will secure this capital and secure it at once. My friends, if you were an investor, would you prefer to invest your money in the railroads, under the plan of the Affirmative, which would limit your returns to 5½% and guarantee you absolutely nothing; or would you prefer to invest under the Negative plan, which absolutely guarantees a 4% return, and allows you additional profits, according to the net income of the road in which your money is invested?

The third important issue, is that of securing co-operation on the part of labor. Which is the better, the Affirmative plan, which merely provides for a Wage Board, all the benefits of which will be offset by an anti-strike clause; or the Negative plan, which provides for labor's equal representation with capital on the directing board of the Federal

Holding Company, which representation will mean that labor will secure adequate wages, and which provides for the participation of labor in the management of the roads and a share in the profits? Is it difficult to see which plan will be the most acceptable to labor?

In conclusion, Ladies and Gentlemen, since the plan of the Negative provides for financial consolidation, the form of consolidation needed, which is not provided for in the Cummins plan; since the plan of the Negative guarantees a return to capital, which the Cummins Bill does not do; and since the plan of the Negative will secure the co-operation of labor which is prevented by the anti-strike provision of the Cummins Bill, we believe that this plan should be adopted in place of the Cummins Bill.

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CHAPTER III

AFFILIATION OF TEACHERS WITH THE AMERICAN FEDERATION OF LABOR

UNIVERSITY OF TEXAS

versus

UNIVERSITY OF UTAH

RESOLVED, *That teachers should affiliate with the American Federation of Labor.*

This is a report of the debate between an Affirmative team representing the University of Texas and a Negative team representing the University of Utah, held at Austin, Texas, on April 2, 1920. The decision was two to one in favor of the Affirmative. This report was furnished by E. D. Shurter, Chairman of the School of Public Speaking, University of Texas.

BRIEF

AFFILIATION OF TEACHERS WITH THE AMERICAN FEDERATION OF LABOR

Affirmative

I. There are serious evils in the present system of education.
   - A. Low wages.
     1. Many teachers are receiving less than a living wage—the average wage is now $600 a year.
     2. Wages are very much lower than those of union labor in spite of the fact that many of the best years of a teacher's life are spent in preparation for the profession.
     3. Wages have not advanced with the cost of living.
   - B. Shortage of teachers.
     1. According to the National Education Association report for 1919, 100,000 teaching positions are vacant or filled by teachers below the standard.
     2. According to the report of the U. S. Commissioner of Education, March 6, 1920, 300,000 of the 650,000 teachers in the United States are today "below any reasonable minimum standard of qualification."
   - C. Insecurity of the teacher's position.
     1. Contracts are one-sided—the teacher is held but the board has power to dismiss without a hearing.
        a. The teacher has no legal status.
     2. Boards of Education can and often do have secret meetings and teachers are dismissed without adequate reason therefor being made public.
     3. Union men cannot be treated thus by their employers.

D. Lack of freedom of thought and speech.
   1. Teachers are to-day denied freedom of speech and action both in and out of the school room.
      a. The result is servility which is already the bane of the teaching profession.
      b. It destroys in the premises the aim and end of all education; the development of the individual thru self-expression.
      c. It is Prussianism.
   2. This educational policy of inhibition and repression tends to lead to revolution and anarchy.

II. These evils would be overcome by the affiliation of teachers with the American Federation of Labor.
   A. It is the most practical method of raising wages.
   B. Increase of wages would secure a higher type of teacher and check the exodus from the teaching profession.
   C. Affiliation with the American Federation of Labor would give the teachers more freedom, and make tenure of position more secure.
   D. It would give the death blow to Prussianism in our schools.
   E. To raise wages of teachers without such affiliation would found education on fear and repression, and prepare the way for anarchy and violence.

III. These evils have not been remedied by any body of teachers organized along strictly professional lines.
   A. They have lacked the driving power necessary to translate their needs and hopes into realities.
   B. This power can be supplied by the American Federation of Labor.
      1. The Federation has a combined membership of over 300,000 citizens.
      2. Its active influence is responsible for the labor legislation on our statute books which has raised labor from a commodity to the level of a living, breathing, spiritual human being.
      3. Labor has always shown great interest in and sympathy with educational ideals and reforms.

4. There is no other non-teaching body to whom teachers can go for so sympathetic an understanding of their present problem.

IV. Affiliation of teachers with the American Federation of Labor is desirable for other reasons.

A. It will break down the barrier between the wage-earner and the intellectual.

1. This will bring to the Federation the direction which trained minds could give it, help dissipate the narrow selfish viewpoint labor too often has, and bring to labor struggles balance and penetration.

2. It will bring to the teachers the power necessary to get needed increases in salary and fairer and more democratic treatment.

B. It does not mean strikes.

1. The American Federation of Labor grants complete autonomy to the American Federation of Teachers.

2. The constitution of the latter contains no provision for strikes.

3. There have been teacher's strikes in this country but not one of them has taken place in a unionized city.

C. Affiliation is a reality in 31 states, with 140 locals and and a combined membership of 12,000.

Negative

I. The affiliation of teachers with the American Federation of Labor will not aid the teachers in solving their economic problems.

A. Labor can give no material aid to teachers organizations.

1. Their problems are entirely different.

a. The laborer's chief weapons lie in force—the strike, the boycott, and gaining recognition of the union.

b. The teachers can get relief only thru an aroused public support—the public must be educated.

2. Labor has no means of transmitting educational propaganda to the public.
   a. Labor does not control a single paper with a circulation outside its own members.
   b. The press of the country is already wholeheartedly in support of the teachers.

B. Such affiliation would weaken the position of the teachers.
   1. Teacher's organizations comprising only a part of the teachers would be undesirable.
   2. The majority of teachers are opposed to organizations affiliated with labor.
      a. Of 23,000 teachers in New York only about 500 have thus affiliated.
      b. Many state educational associations are opposed to such affiliation.
      c. Many already established locals deny their affiliation with Labor.
   3. The public is opposed to teachers affiliating with the American Federation of Labor.
      a. It is not desirable for teachers as public servants, to affiliate with any one class in the community.
      b. The public is strongly opposed to labor because of strikes and labor difficulties.
      c. All classes in the community should be called upon to aid the teachers.

C. It would result in class distinctions among the teachers themselves.
   1. By the rules of the organization, every school board member, principal and supervising officer must be excluded from membership.
   2. These very members of the teaching force are now taking the lead in bettering the conditions of the teachers.
   3. They are also the ones who are known by and have the confidence of the public.

II. Affiliation of teachers with the American Federation of Labor would be undemocratic.
   A. It would mean joining a particular class in society.
      1. Organized labor comprises less than 4% of the population of this country and represents a partisan group.
   B. If teachers join the American Federation of Labor their allegiance must be given to this group.
      1. They must contribute to the general treasury for the support of strikes, lockouts and boycotts which have for their object the increasing of the power of labor.

III. Our educational problems are already being solved thru better means than by the affiliation of teachers with labor organizations.
   A. In most cases the public has done as much as possible to pay the teachers increased salaries.
      1. Relief cannot be given to the teachers in the matter of salaries until there is more money.
         a. There must be first a change in existing laws and statutes.
      2. Men and women in every walk of life are already carrying on a campaign to remedy conditions.
         a. As a result salaries have already been increased in many states and cities.
         b. In not one of these cities is there a branch of the American Federation of Teachers.
         c. The Smith-Towner bill before Congress is largely the result of the efforts of the National Education Association.
   B. If a teacher's organization is needed for such purposes it had better be one that is not affiliated with any other.
      1. It will be more democratic.
      2. It will be more likely to succeed because it can appeal to all classes of society alike.
         a. Teachers will have the support of both labor and capital.

b. This was the experience of the New York state teachers in their recent successful drive for larger salaries.

3. Such an unaffiliated organization will the National Education Association be when it is reorganized.

AFFILIATION OF TEACHERS WITH THE AMERICAN FEDERATION OF LABOR

UNIVERSITY OF TEXAS

versus

UNIVERSITY OF UTAH

FIRST AFFIRMATIVE

John D. Cofer, Texas

The Affirmative bases its plea for better schools upon four fundamental propositions: 1. There are serious evils in the present system of education; 2. These evils have not been remedied by any body of teachers organized along strictly professional lines; 3. Affiliation with the American Federation of Labor to the extent that it has been tried has remedied these evils; and 4. Affiliation with the American Federation of Labor has not been attended by new evils of a fresh order. I shall confine my discussion to a consideration of the evils in the present system of education, while my colleague will show that affiliation will remedy these evils.

Teachers should affiliate with the American Federation of Labor because affiliation is the best way to raise the wages of teachers. A large per cent of the teachers in the United States are receiving between $300.00 and $400.00 a year. The average wage paid American teachers is $600.00 a year. Six hundred dollars a year, and remember that teachers are compelled to spend from four to six of the best years of their lives in preparation for their profession, in college and university, at a cost of perhaps $1,000.00 a year. Remember too, that the cost of living has increased 100 per cent in the last four years. And how do these wages compare with the wages of union labor? Union

brick masons in the City of Gainesville, Texas, recently received a wage of $12.00 per day for an eight hour day. In the City of New York union soda jerkers get $40.00 a week, a wage larger than most teachers get in an entire month; the union barber across the campus from the University of Texas makes $50.00 a week. This is a salary considerably larger than many doctors of philosophy in the University receive, and four times as large as the average wage received by American teachers. This comparison pays an eloquent tribute to the value and worth of the union.

In view of these facts, is it any wonder that there is a serious shortage of teachers throughout the United States, and that nearly fifty per cent of those now employed are not qualified for their work? The United States Commissioner of Education in his last report, March 6, 1920, is authority for the statement that 300,000 of the 650,000 teachers in the United States are today "below any reasonable minimum standard of qualification." The United States Bureau of Education reports that there are fifty thousand vacancies in the United States in the teaching profession. The National Education Association report for November, 1919, estimates that 100,000 teaching positions are either vacant or are filled by teachers below the standard. And Secretary Franklin K. Lane estimates that more than 145,000 teachers left the schools last year. Ladies and Gentlemen, is there any similar exodus from the ranks of union labor?

But there is a third evil in the present educational system which, together with low wages, explains why the supply of teachers is so pitifully inadequate: the teacher's position is never secure. Throughout the United States teachers are compelled to sign one-sided contracts under which the board of education that employs them has power to dismiss them at any time no matter how faithful and competent they may be, without notice, without a charge, and without an opportunity for a hearing; and the teacher has no redress because he has no legal status. Boards of Education have no right to meet in secret session, in dark places, in "committee of the whole" and summarily expel any teacher from the profession by such arbitrary and star

chamber methods of procedure. Such action is not only unnecessary and uncalled for; it is arbitrary, insolent, and tyrannical. It violates every bill of rights in every constitution in the land. It is utterly destructive of all the ordinary civil rights a democracy is supposed to secure, and utterly destructive of all the rights a democracy is supposed to conserve. Under such a system boards of education cease to be trustees; they become proprietors, and teachers are their personal chattels.

No good reason has ever been made public why Charles A. Beard and James H. Robinson were forced out of Columbia University two years ago; no good reason has ever been made public why Dr. Levine was dismissed from the University of Montana a year ago; and certainly no one in Texas has ever heard of a good reason why six professors were dismissed from the University of Texas two years ago. The danger here, however, does not lie in the number of teachers unjustly discharged, though the number is far larger than anyone knows; the menace lies in the fact that any teacher, anywhere, may fall a victim at any time to the Prussian methods in vogue.

I ask you in all candor, what avails it to send the boys three thousand miles across the seas to overthrow Prussianism abroad, if we not only permit but encourage Prussianism in the schools at home. Democracy in government depends primarily upon democracy in education, and we shall never make the world safe for democracy until we make the schools safe for democracy. Again, I ask, can a union printer be moved about at the whim of his employer like a man on a checker board? Can he be kicked about as if he were a football, or a stranger cur that you foot through the streets?

Affiliation with the American Federation of Labor will not only insure security of tenure, but it will secure greater freedom for the teacher in the class room and in the community. Throughout its history, the American Federation of Labor has consistently advocated and demanded absolute freedom of thought and speech. "The very life and perpetuity of free and democratic institutions," says the platform of the American Federation of Labor, "are dependent upon freedom of speech. And we insist that all restriction

of free speech be completely removed. These fundamental rights must not be denied."

This leads to the fourth evil in the present system of education—an evil more serious, more menacing than either low wages, shortage of teachers, or insecurity of tenure. Today teachers are everywhere denied anything that remotely resembles freedom of thought and action whether within the class room or outside the class room. To increase the wages of teachers, to make positions in the school more attractive by making tenure more secure without guaranteeing freedom of thought and speech would be the greatest crime that the State could possibly commit against teachers, against students, and against the public, because it would put an almost irresistable premium upon servility, and subservience is already the bane of the teaching profession. This is a natural corollary of the autocratic methods and practices of school authorities. Autocratic use of power on the part of school authorities presupposes and demands unquestioned and unquestioning obedience on the part of teachers, who must hold and express no opinions except such as meet with the approval of the authorities. Men and women capable of making learning respected and felt as a vital force in the community will never permit other men to say what opinions they shall hold or what beliefs they shall express; they will never permit themselves to become parrots, or phonographs whose only duty is to reflect their master's voice. Mental slavery is too great a price to pay for a position in the schools. Autocracy thus guarantees that only the unfit shall survive and remain in the school room. The present autocratic policy of suppression and repression destroys in the premises the very end and aim of all true education: the development of the individual through self expression. Here again the road leads straight to Potsdam. Prussianism would never have been possible had not the German people for generations been drilled and regimented into the debasing habit of acting without thinking for themselves; acting mechanically in servile obedience to external authority. Is Prussianism so dear to us that we must pervert American schools to the culture of the germ? Not at all; we must return to the individual. We must at least permit

the schools to fulfill their function of developing men and women of strength and of character, and we must rely upon the individual will, thought, and conscience to save—or to make—the commonwealth. The welfare of an autocracy may depend upon submission to a kaiser, but the man who will not goose-step is the the hope of democracy.

The present educational policy of inhibition and repression is fundamentally and eternally wrong—a thing of evil wholly—because it leads to revolution and anarchy. It leads to utter chaos, because: (1) repression makes its victims hate authority; conversely (2) it makes him love the people who deny authority and who want to overthrow government; and (3) the governing body, the properly constituted authority, whether board of education or board of trustees, by its autocratic action in dismissing teachers and in suppressing thought, sets the pace and gives the example for the use of violence with the inevitable consequence of "violence for violence."[1] There is no surer road to socialism and bolshevism than along the way of fear based upon repression. "Repression," said President Wilson in his December address to Congress, "is the seed to revolution."[1] A murdered Czar, not the fanatics Lenine and Trotsky, is responsible for the anarchy in Russia. Louis XIV, not Robespierre, erected the guilotine. Not the wild doctrines of the hunted Jew, Karl Marx, but military autocracy, ironically symbolized by a "withered arm," and a German nation debased, deadened, brutalized by docility, by servile submission to autocracy—this in 1914 plunged the world into War. Repression always marks the road to revolution. All true education must be based, not upon inhibition and fear, but upon hope and freedom. Teachers must be permitted to revere their own consciousness, and to live in the light of their own intellects.

In this discussion, Ladies and Gentlemen, I have shown: (1) that affiliation with the American Federation of Labor is the most practical way of increasing the wages of teachers; (2) that an increase of wage will secure a higher type of teacher, and check the exodus from the teaching profession; (3) that affiliation will make tenure of position more secure; (4) that affiliation will give teachers more freedom;

[1] John Haynes Holmes. *Repression, the Road to Revolution.*

and (5) that it will give the death blow to Prussianism in our schools. Finally, I have shown that to raise wages of teachers without securing tenure of position through affiliation with a body like the American Federation of Labor would be the greatest crime the state could commit against itself, because it would found education upon fear and repression, and prepare the way for anarchy and violence.

FIRST NEGATIVE

Lyman W. Smith, Utah

It is a shame that the first speaker of the Affirmative should have wasted his time telling you that the teachers were underpaid. In this we heartily agree with our opponents. It is a deplorable fact that the American teachers are underpaid and we would do all in our power to increase the teacher's salaries. What we are concerned with in this question is the best means of increasing those salaries. This is distinctly a question of affiliation. Our opponents must show just how this affiliation of the teachers with the American Federation of Labor will better the condition of the teachers. Presenting arguments showing the low salaries of the teachers or showing the achievements of labor in the field of industry does not show that labor can aid teachers in solving our educational problems. What is the magic of this affiliation? Let our opponents answer that question.

Our opponents would further have you believe that the members of the American School Boards are undemocratic and inclined to be autocratic. Now it is possible that among our thousands of school board members there are a few who are autocratic. Of the few presidents we have had since signing the Declaration of Independence not all have acted for the best in the eyes of the public. But these autocratic school board members are very scarce. Let our opponents point out several such school boards. What cities contain such autocratic members of the school boards? Are they in the schools here in Texas or in the state of Utah? I suggest to you, Ladies and Gentlemen,

that our opponents will have a mighty difficult time establishing the fact that the American schools are dominated by autocratic board members.

Furthermore, if our schools were dominated by autocratic administrators we would not better our educational system by affiliating the teachers with labor organizations. Of all the abominable means of ridding our school of autocracy I can conceive of no worse way than affiliating the teachers with labor organizations. Let me call your attention to the fact that the American Federation of Teachers, with which our teachers would have to join should they affiliate with labor, is an organization that demands that the teachers have all the administrative power. Mind you, the teachers would dominate the schools. The board members whom you select to administrate the schools would be completely ousted from their positions. Stillman, the president of the American Federation of Teachers, claims emphatically that the teachers should have every bit of the administration. Ladies and Gentlemen, I suggest to you that when you increase the teachers' salaries you will increase them in order that the teachers might teach better not that they might dictate the conditions under which they will teach.

Continuing the defense for the Negative, Honorable Judges, we shall show

1. That affiliating the school teachers with the American Federation of Labor would not aid the teachers in solving their economic problems.

2. Affiliating teachers with the American Federation of Labor is undemocratic.

3. Our educational problems are being solved thru better means than affiliating the teachers with labor organizations.

At the outset, Ladies and Gentlemen, it should be clear to us that labor can give no material aid to the teachers organizations. The problem facing the teachers and the problem facing the labor men are entirely different. The laborer's means of bettering his conditions are thru the strike, the boycott and thru gaining recognition of the union. The laborer's chiefest weapons lie in force. On the other hand the teacher has a problem peculiarly his own.

The teacher can get relief from inefficiency and low salaries only thru an aroused public support for better education. The public cannot be forced to pay increased taxes for education in the same way that the private employer is forced to increase the salaries of his workers. The public must be made to see the need of the increased taxes before it will vote for them. Consequently the teachers' chief weapons lie in educating the public and our opponents find it impossible to show how labor can aid the teachers in educating the public. In fact it would be absurd to think that labor can aid in education. Of all classes in society the laboring class probably needs education the worst. Furthermore the American Federation of Labor has no means of transmitting educational propaganda to the public. Labor does not control a single paper with a circulation outside a few of its own members. The publications of the country are opposed to the labor organizations. In view of this fact and in view of the fact that the papers and periodicals thruout the country are now wholeheartedly in support of the teachers it is fallacious to argue that the teachers should affiliate with labor so that the labor organizations might aid in educating the public. Let me again remind you that our opponents have found it impossible to show just how the teachers are to receive aid from the American Federation of Labor. Why then should the teachers affiliate with that organization?

Not only would labor be unable to give any material aid to the teachers but the very affiliation would weaken the position of the teachers. It must be understood that teachers organizations comprising only a part of the teachers would be undesirable. If the teachers should organize into several groups thruout the country they would be unable to act in unison. Their forces would be so scattered that success would not attend their efforts. Any desirable organization of teachers then is one into which we can get a majority of the teachers. Now it is absolutely impossible to get a majority of the teachers of this country to join organizations affiliated with labor. The great majority of the teachers of the country are opposed to such a step. At the last annual convention of the National Education Association it was made clear that the most ardent supporters

of reorganization of the existing teachers organizations are the ones most violently opposed to the affiliation with labor.

In the state of New York where there are some 23,000 teachers only about 500 are affiliated with labor and the other 22,500 are flatly opposed to such a step

Several states have reorganized the state educational associations and gone on record as being opposed to affiliation with labor. Some of these states are, Ohio, Kansas, Minnesota, Montana and Utah. Most any one of these state organizations contains more members than the combined membership of the American Federation of Teachers. The tendency of the teachers today is to reorganize the existing organizations and refuse to affiliate with any class in society so that they might demand aid from every citizen. These non-affiliated organizations cover whole states while the locals of the American Federation of Teachers are scattered all over the country whereever they can find a group of radical teachers. It is peculiar that in no place do we find them strong. Seldom do we find a group of locals. If the locals set good examples why do we not find more locals springing up around them? Will our opponents answer this query?

Even the members of the now established locals deny their affiliation with labor. We happened to write to the teachers union at Galveston, Texas, which is claimed as a local of the American Federation of Teachers. Miss Lucy Arnold, Secretary of the organization, answered that they were not affiliated with labor and did not intend to affiliate.

At another time we wrote to the Bellingham Federation of Teachers, which is listed by the American Federation of Teachers as a local, and received an answer stating that they were not affiliated with labor in any way. From these letters we can deduce one of two things: either the locals of the American Federation of Teachers listed by that Federation are ficticious or else the teachers in those locals are ashamed to admit they have betrayed their trust as public servants. And indeed they should be ashamed to admit that they are affiliated with any one class of society. It is the teachers duty, accepted when the position was accepted, to teach alike the son of labor and the daughter

of capital. If the teacher alligns herself with any one class of society it is impossible for her to fulfill this obligation to the other classes represented in the schools.

Honorable Judges, I have now shown that the teachers themselves are opposed to this affiliation with labor because they realize that they are public servants and should not allign themselves with any one class of society. Let me carry you farther and point out that the public in general is opposed to the teachers affiliating with the American Federation of Labor. Individually the public has no objection to the teachers joining any religious, social, economical or political organizations they desire but history has taught that it is not for the best interests of the schools for the teachers in groups to join classes or organizations. What would the Republicans say if the teachers should all become Democrats? What would the Democrats say if the teachers should all become Republicans? If the teachers affiliate with labor they will necessarily have to support that organization to the extent of opposing the capitalistic class and even at times opposing the public as a whole. Because of this fact the public will violently oppose the teachers affiliating with any one class and particularly the labor organizations. Of all the groups in society probably the American Federation of Labor is the most strongly opposed by the public. Everyone knows the attitude we take toward labor when it holds us in the throes of a nation wide strike. The papers and the people as a whole are most loud in their condemnation of the laboring men when they strike at the heart of the public itself. Ask the man on the street today who is the cause of the high prices and he will answer "The American Federation of Labor." At the present time we have an indictment against 125 coal miners and operators, for conspiracy to increase the price of coal to the consumer.

Is there a man who would not say that the public would not oppose its teachers affiliating with such an organization? Think of our teachers entering the school room on the morning of a nation wide strike during which the railroads were tied up and the farmers' crops threatened with decay, when there was no coal in transportation and the school children were freezing. And further think

of those teachers giving money to prolong that strike. Under such conditions would not the teachers be ashamed to face the public to ask for increased salaries so that they might donate more money to the strike fund? The teachers must remember that after all the money for increased salaries must come from the public, and if they would hold themselves in the best position to ask for that money they must not affiliate with the public's worst enemy.

To point more specifically just how absurd it is for the teachers to join any one organization in society let me call your attention to the fact that there are many organizations in the country, all of which must be called upon to aid the teachers. No one class of organizations can solve this educational problem. The teachers might hold themselves aloof from all of these organizations, maintain an unbiased position and ask aid from every one. Instead of doing that our opponents propose that they join one organization when at the same time they arouse the opposition of another. Do you know that the farmers of this country are as well organized as the laboring men outside the farmers? And do you know that the farmers have launched a campaign to fight the American Federation of Labor? Six farmers organizations have united to fight the laboring men because the American Federation of Labor is fighting for interests opposed to the interests of the farmers. The laborer believes in an eight hour day while the eight hour day is impossible on the farm. Labor believes in increasing prices by limitation of production. If the farmers should limit production the world would be threatened with starvation. The farmers wished to have a minimum price set on wheat which the laboring men opposed. So because of these reasons we find accounts in almost every paper, in your own Texas papers, telling of the farmers grouping together to fight the laboring men. The farmers so hate the members of the American Federation of Labor that they would fight to the bitter end any movement to affiliate the teachers of their children with such an organization. In what way will our opponents claim that the teachers will be benefited by joining one class when in the very same moment they arouse the hatred of the farmers?

I have now pointed out to you, Honorable Judges, that labor can give no material aid to the teachers, that the teachers themselves are opposed to this affiliation, that the public is opposed and that the farmers hate the laboring men. These reasons alone are sufficient reasons why the teachers should not affiliate. But there is still a very gross evil in this affiliation to which I must call your attention. Keep in mind that the only way in which the teachers can affiliate with labor is by joining the American Federation of Teachers. The constitution of that organization requires that the teachers entirely exclude from their organizations every school board member and every superintendent and further requires that they exclude for a period of six months and possibly forever every principal, head of a department and every supervising officer of any description. At the outset the teachers would establish class distinctions and make conditions ideal for war at home instead of maintaining a solid front to fight their battle.

Ladies and Gentlemen, relief from this inefficiency and low salaries must come, indeed it can only come thru an aroused public support for better education. This public support must be aroused by the combined efforts of teachers, the supervisors and the administrators. How can the teachers present their problems to the public if they are fighting amongst themselves? How will the public treat requests coming from a group of the teachers so selfish and egotistical that they will not allow part of their own fellows to join their organizations? And how can the teachers present the educational facts to the public when they exclude from their campaigns and their organizations the very members who hold the confidence of the public and know most about the facts to be presented. And don't you forget the superintendents are now taking the lead in bettering the conditions of the teachers. During the months of January and February of 1920 the National Education Association sent out about 50,000 leaflets presenting educational conditions to the public and explaining the low salaries of the teachers. Of this 50,000 about 35,000 were sent out on request of city and county superintendents. This shows conclusively that the very members of the teaching force that the teachers would exclude from their organiza-

tions are the ones who are taking the lead in bettering the conditions of the teachers. If the teachers would strike a death blow at themselves let them join the American Federation of Teachers and thereby affiliate with the American Federation of Labor.

In conclusion Honorable Judges, I have shown that affiliating school teachers with the American Federation of Labor would not be conducive to solving the teachers economic problems, for,

1. Labor could give no material aid to the teachers.
2. The teachers themselves oppose this affiliation.
3. The public opposes the affiliation.
4. The farmers have already organized to fight the American Federation of Labor.
5. The constitution of the American Federation of Teachers requires that the teachers strike a death blow at their power by excluding from the teachers organizations the very members who are doing the most to better the conditions of the teachers.

If the Affirmative would win this debate the next speaker of the Affirmative will point out just how the American Federation of Labor can aid the teachers in solving their problem.

SECOND AFFIRMATIVE

Robert M. Field, Texas

Obviously the teachers by independent, professional organizations have failed to secure the reforms which they desire. Accordingly, since they themselves are powerless, their problem at this time is to affiliate with those who entertain similar ideals. Naturally, no one understands the hopes and ideals of the teachers better than themselves. Despite their understanding, however, they have lacked the necessary driving power to translate those hopes into realities. With their exaggerated "class consciousness," they have organized teachers' associations, but their influence has been imperceptible. "What the teachers need is a great body of organized citizens who sympathize with their needs and who will make their cause their own." It is the want

of power to consumate their ideals that hampers the teachers to-day. Lacking that power, whence shall it come? The answer is, from the American Federation of Labor.

The American Federation of Labor is composed of 32,000 labor unions, having a combined membership of over three million citizens. It was established in 1883 and has for its purpose the advancement of the laboring class through organization and collective bargaining power. From its inception, however, its program has embraced not only the specific demands of labor but likewise the aspirations of society as a whole against special privilege. "Fundamentally it has fought for a humaner world. It has thrown down a challenge to all the autocracies that have set themselves up for the governance of life. It has fought for human emancipation—for yours and mine."[1] To the active influence of labor we must ascribe the passage of Old Age Pensions, Minimum Wage Laws, Accident Insurance, Workmen's Compensation Acts, and Child Labor Laws. Strange as it may seem, advocacy of these measures by the American Federation of Labor raised the same time-worn cry which we hear to-day, whenever a reform is proposed—the cry that they were socialistic and inimical to the best interests of society. By virtue of a courage and foresight which we must exercise to-day if we are to solve the grave problems which confronts us, the statemen of yesterday heeded the demands of labor and placed on the statute books—never to be questioned again—the humane measures which the American Federation of Labor championed. With what result? The enactment of that legislation has raised labor from the status of a commodity to the level of a living, breathing, spiritual human being. That achievement constitutes the greatest single reform in the modern world since the abolition of slavery.

In addition, the educational program of labor has shown the community of ideals which has always existed between organized labor and the teaching profession. From the very beginning—so early as 1825—the first demand of enfranchised labor was for free schools. From that demand of 1825 to the Fisher Education Bill of 1919 which gives Eng-

[1] Harry A. Overstreet. Should Teachers Affiliate with Organized Labor? Public Education Association of New York City. February 28, 1920.

land the most comprehensive program of education of any nation on earth, the Labor movement at home and abroad has constantly fought the battle of the teacher and the cause of education. In the early days of our Republic after the principle of free schools had been adopted in theory but showed every evidence of perishing in fact, it was the wage-earners who insisted that public schools be supported by public taxes. That early activity has been successively duplicated until we find its latest echo in the battle which the Federation of Chicago successfully fought to recover three million dollars from back taxes due the school fund.

To what other non-teaching body can teachers go for so sympathetic an understanding of their present problem? No labor convention has met in recent years which did not devote an appreciable part of its time to the school problem. The American Federation of Labor at its convention in 1919 adopted an educational platform in which are embodied nineteen demands, every one of which aims at the improvement of the schools. Among these are the following: better enforcement of the school laws, wider use of the school plant, reduction in the size of classes, revision of salaries upward, increase of school revenues, co-operation between boards of education and superintendents and committees representing the teaching body in all cases of controversy between school authorities and teachers, security of tenure during efficiency, and above all, greater freedom for the teacher in the class room and in the community. From this array of facts we can draw but one conclusion, namely, that Labor has always sought to promote the best interests of the teaching profession. Clearly, then, by affiliating with the American Federation of Labor the teachers will only be consumating in a definite way the sympathetic, though informal, understanding which already exists between the laborer and the teacher.

It is by reason of this community of ideals that affiliation of the teachers with the American Federation of Labor will accomplish the difficult task of breaking down the existing barriers between wage-earners and intellectuals. We are all familiar with the entente which exists in England and on the continent between wage-earners and intellectuals. In the United States the development of the labor movement

has been along independent lines. Naturally the service rendered by the American Federation of Labor has been hampered by the absence of the direction which trained minds could give it. Too often the point of view of labor has been narrow and selfish. Yet a continuance of that mistake can be avoided. To quote Dr. Overstreet again, "in a real sense the teachers can help labor. They can help with their understanding of history, of economics, of politics, and of science. They can bring to the labor struggles intellectual balance and penetration; they can help to give to these struggles a direction that is unfalteringly social."

What can affiliation do for teachers? This question is best answered by showing what it has done. In Memphis, Tenn., teachers' unions secured tax legislation necessary to provide sufficient school funds; in Sacramento, California, they raised the tax levy; in the District of Columbia, they doubled teachers'salaries and thereby stopped the exodus of teachers into the government employ; in Murphysboro, Illinois, they forced the school authorities to abandon an antiquated contract and provide a satisfactory one; they have secured salaries for teachers in St. Paul, Minnesota, in New York City, and in Houston, Texas; they have maintained a merit system that is above suspicion wherever they have secured power; they have always vigorously insisted upon a hearing for teachers before dismissed. In a word, teachers unions, as my colleague has stated, have dealt the death blow to Prussianism in American schools and have instituted something like a genuine democracy in education. These examples of the activity of teachers' unions taken at random from widely separated districts, representing problems in cities of every size, illustrate the universal effectiveness of the union. These achievements, despite the open hostility of the press and the school authorities, must be accepted as indisputable evidence of the real need which affiliation meets.

In no single instance was affiliation accomplished without vehement denunciation and woeful prophecies of strikes. But the prophecies have fallen far short of coming true. Affiliation of the teacher does not mean the strike. The American Federation of Labor grants complete autonomy to the American Federation of Teachers. The constitution of the latter contains no provision for the strike. There

have been strikes of teachers in this country, but not one of them has taken place in a unionized city. In every instance, the teachers' unions have specifically disavowed the use of the strike. Among the scores of affiliated teachers' unions we challenge the opposition to point to one single instance of a strike. They cannot do so because there have been no strikes in communities where teachers are unionized.

In the face of these facts, we must conclude that the alarms of the Negative are unfounded. Affiliation is a reality in thirty-one states, with 140 locals and a combined membership of 12,000. On the one hand, independent, professional teachers' associations with their splendid isolation have proven splendidly ineffective and have brought the school system to the verge of bankruptcy. On the other hand, affiliated teachers' unions have remedied existing conditions and brought none of the evils which were so loudly prophesied. Instead, affiliation has added a vigor and a commanding power to the 12,000 affiliated teachers which the 700,000 unaffiliated teachers have never known. Legitimate doubts have been answered. But still the logical step of universal affiliation has been retarded. It is still opposed. Why? Because of the extraordinary superstition which always prevails that the present situation is perfect; that it should not be altered; and that anybody who proposes a change is an enemy to society. But present conditions must be remedied. Organizations along independent, professional lines have brought the very conditions which exist to-day. They have shown themselves unable to remedy those conditions. So despite the universal inherent opposition to all change, affiliation must come.

SECOND NEGATIVE

J. F. Worthen, Utah

We wish it distinctly understood at the outset that the only way that teachers can affiliate with the American Federation of Labor is by joining the American Federation of Teachers, which is affiliated with labor. This fact the Affirmative have failed to tell you and they are the

ones who should have explained this plan of organization and affiliation to you.

Now, I wish to say something concerning this American Federation of Teachers. It is an organization whose officers and members are endeavoring to take all authority unto themselves. According to the Eastern newspapers Mr. C. N. Stillman, as president of the American Federation of Teachers, went to the National Education Association Convention at Cleveland, Ohio, in February and there declared that school boards should be elected by the teachers themselves. He informed them the general public had no right to elect their own school boards.

Now, the Affirmative side have objected to the autocratic conditions which they say exist in our school systems. And yet the teachers themselves, who already belong to this Teachers' Federation are desiring to take the right of choosing the school administrators from the hands of the people and place it entirely under their own jurisdiction. Can you imagine a more autocratic procedure than this?

The Affirmative have also told you that certain faults exist in our educational system. This, to some extent, we can not deny, and yet our opponents have failed to show us just wherein affiliation will remedy these faults. We would like to ask just what is in the word affiliation that would bring about a betterment of existing conditions. In order for the Affirmative to be successful in this debate they must point out this fact clearly to you.

Now, Ladies and Gentlemen, as announced by my colleague, we, the Negative, intend to prove our case by establishing three facts: First, affiliation with the American Federation of Labor would not be conducive to solving the teachers' economic problem; secondly, that affiliation is undemocratic; and thirdly, that the problem is being solved in a more satisfactory way than affiliation. I shall deal with the last two issues.

In regard, then, to affiliation being undemocratic; If the teachers affiliate with the American Federation of Labor they will be joining a definite class in society. It is known that organized labor comprises less than four per cent of the population of this country and what is more, if we read the preamble to the constitution of this body

we find that this organization represents a partisan group. There we read that the purpose of organized labor is to further their own ends and to do anything that will bring for them personal betterment. Also, if we will consider the advice of Samuel Gompers, we will find that the American Federation of Labor represents a definite partisan class in society, for just a few weeks ago he issued advice to all organized labor, telling them to return no man to Congress who was not in favor of Labor's program as defined by the American Federation of Labor. Think of it, then, Ladies and Gentlemen, your teachers, your servants, who are supposed to represent no class in society, are urged by the Affirmative to affiliate themselves with a body that is avowedly a partisan group. Further, if your teachers affiliate with the American Federation of Labor, their allegiance would be to that group because according to the constitution of this organization, all affiliated members must contribute money into the general treasury. But what is far worse; according to article 12, section 1 and 2 of the Constitution of the American Federation of Labor, every affiliated laborer must contribute money for the support of strikes, lockouts and boycotts if called upon to do so. Is it not, then, very undemocratic to even think of public servants affiliating with an organization to whom they must pay money to be used in support of strikes, which have for their object the increasing of the power of a class? Hence we must conclude that if the teachers affiliate with labor, they will display an undemocratic spirit and in the end the best interests of our educational system will be undermined.

Now that I have shown you wherein affiliation would be undemocratic, let us consider if the problem is not being solved in a more satisfactory way than by affiliation. In the first place, Ladies and Gentlemen, if we understand all of the conditions as they are existing now, we will find that in most cases the public has done as much as possible to pay the teachers increased salaries. According to a report of the Committee on Salaries and Pensions of the National Education Association, the people of the United States have gone the limit under existing laws in paying the teachers better salaries for their work.

An extract from this report says: "We find that with-

out exception there are no available state funds for school support until there is further legislation". Also, from this same report we get the following: "School officials as a rule are willing to grant increased salaries but do not know where the money is to come from".

This committee sent requests to most of the states, asking them if there was any money available for state school support. They received the answer from most of them that there was no available money which could be used for increasing teachers' salaries. Now, the Affirmative state, that affiliation with labor will immediately raise the salary of those engaged in the teaching profession but we maintain that it will be impossible under existing laws and statutes to give immediate permanent relief to the teachers. We admit that in certain communities the teachers' salaries have been increased but the measures adopted in these places are only emergency measures. The only thing to be done then is to so educate the public that when the questions come up to them regarding the bettering of teachers' salaries, they will act favorably upon them. In this connection I need only mention the case of your own state here, Texas, in which the Governor refused to call a separate session of the legislature to deal with the salary problem because he realized that permanent relief could only come by an amended constitution and that could only result by the people themselves voting upon it. Furthermore, we find that the public in general is making every effort to solve this problem. They are realizing now more than ever that their teachers in many cases are handicapped and are trying to do everything in their power to remedy the condition. At the present time one of the largest campaigns that has ever been waged in this country, is being carried on by men and women from every walk in life, men and women who represent not only labor but men and women who represent capital and the object of this campaign is to educate the people so that when the time comes for them to decide upon favorable teachers' legislation, they will be favorable toward any measures that may be offered.

Let us consider the results that have been accomplished by this campaign. The state of Alabama has increased

salaries by instituting an income tax; Florida has made it possible that teachers' salaries may be increased by a constitutional amendment. The state of Minnesota has increased taxation for this same purpose, and the State of Ohio in the years 1917-18 borrowed nearly four million dollars from the banks, issued over seven million dollars in bonds in 1918 and in 1919 borrowed millions more in order that their teachers should receive more just remuneration. The results of this campaign are felt not only in the various states as a whole, but also in the various communities.

The Literary Digest for March 6 of this year gave a list of fifty cities where substantial increase in salaries had been granted teachers, and I might state that in not one of these cities is there an organization of the American Federation of Teachers. Largely as a result of the efforts of the National Education Association we find that one of the greatest educational bills is now up before Congress. This is the Smith-Towner bill, which if passed, will give fifty million dollars a year to the various cities for partial payment of teachers' salaries.

Now, if we consider these facts, Ladies and Gentlemen, we find that the public has not only done as much as they can possibly do in most instances, but it is now working very hard in order that its teachers may receive better pay; and in regard to the Smith-Townsend bill we find that even the National Government is taking steps for the betterment of these conditions.

The Affirmative have told you that the bettering of the teacher's economic condition is the object of organization and that practically nothing can be accomplished without it. If the teachers are desirous of having an organization for handling their problems, we suggest that this organization be an unaffiliated one, and it is for this sort of an organization that we contend. The unaffiliated organization will be able to conduct campaigns for better salaries better than an affiliated organization and with better results because they are able to appeal to all classes of society alike. Their strength will not rest upon the support of capital nor upon the support of labor but upon the united support of both. Just one example will illustrate this con-

dition. In the state of New York where there are nearly 25,000 teachers they organized and carried their problems before the people and received greater increases in salaries than any other body of teachers in the United States. Miss Olive Jones, who conducted this campaign for the teachers, said specifically that in order to make their campaign successful they refrained from affiliating with anybody so that they could appeal to all alike. In this case, then, an unaffiliated organization was successful and they did not have to rely upon labor as the Affirmative has told you is necessary. Such an unaffiliated organization will the National Education Association be when it is reorganized. This reorganization will take place at the Convention which is to be held in Salt Lake City this year. The organization is to be made more democratic and they are to work harder for the individual school teacher than they have done heretofore.

The Affirmative speak very lightly of the N. E. A. but I wish to say this concerning them, that at the present time the National Education Association has over 40,000 members, an increase of over 20,000 in about one year. Think of it, then. If about seven hundred thousand teachers would affiliate into a professional organization, what results might be accomplished by them! It is such an organization as this that would gain the respect of all the people of the United States, and an organization which would be able to present the problems of the teacher before the public in the right light, because even though hampered by unfortunate conditions in the past, it will work that your public servants might receive their just remuneration.

I thank you.

FIRST AFFIRMATIVE REBUTTAL

John D. Cofer, Texas

Take this proposition in New York City. He says there are less than one thousand teachers connected with that organization. Yet that less than one thousand just a few

months ago went before the head of the New York School Board and received a wage increase from seven hundred to eight hundred dollars a year more than what the teachers were receiving at that time.

The gentlemen say that the teachers would not respect the power of the State. Let us see what the book says about it. This is the American Federation of Labor Year Book of last year, 1919. It reads as follows:

"The government should exercise a general supervision and control over the schools, but the government should not be permitted to hamper or destroy the schools."

In other words it recognizes the fact that the government must supervise the schools and the wages paid public school teachers.

I would like to ask the gentlemen of the Negative the following questions:

First, has the professional organization succeeded so far in securing a wage increase?

Secondly, if a wage increase has been secured, has such wage increase been accompanied by a freedom of thought?

Thirdly, have federated teachers ever employed the strike? But I believe the Gentlemen admit that they do not strike.

Fourthly, have teachers ever carried the doctrines of union into the school room or classes.

Now, Ladies and Gentlemen, he says the interest of the laborer and the farmer are not the same, and yet we find in the *New York Times* of February 13th that they met in Chicago in an effort to bring about an organization. The *New York Times* quotes Mr. Plumb as to the purpose of the organization: "We seek to engage in a co-operative enterprise embracing every step from the production of raw materials to the ultimate consumption."

They state that teachers have not the right to join the American Federation of Labor because they will teach the doctrine of the American Federation of Labor in the school room. The very argument of the Gentlemen proves too much. In other words they have not the right to join the Methodist Church or the Baptist Church, or any other church because they will teach the doctrine of one particular denomination in the class room.

Now let us see just where the debate stands so far. The Affirmative have shown that the present system cannot longer exist—that its very life is torn by a serious shortage of underpaid and unprepared teachers. Secondly, we have shown that the present system ought not to exist longer even if it could, because it is based upon fear and oppression. The gentlemen of the Negative have not been able to show that it is not based upon fear. The Affirmative have shown that the present school system is Prussianistic; and they have not shown that Prussianism is a good thing for the schools. Thirdly, the Affirmative have shown that since it cannot longer exist and since it ought not longer to exist, it should be supplanted by a new system; and we have shown that affiliation with the American Federation of Labor is the best plan because the American Federation of Labor is the only organization in the world that has an intelligent understanding of educational matters—that has a progressive plan of education; and it is the only organization that has the power to put such an organization into effect.

FIRST NEGATIVE REBUTTAL

Lyman W. Smith, Utah

Before this debate proceeds further, I would like to call our opponents back to the issue of this debate. They announced at the outset that there were certain evils existing in our educational system. But, Ladies and Gentlemen, they have failed to show wherein affiliation with the American Federation of Labor will remedy those evils. Granting that there are evils existing, we want to know what is the difference between an unaffiliated and an affiliated organization that the unaffiliated organization cannot better the conditions while the affiliated one can. We showed you where an unaffiliated organization, in December, 1919, got a full increase of $600.00 per school teacher. Now let our opponents bring out cases where affiliated schools have gotten such an increase. They have pointed out many cases where there have been increases in salaries, but not permanent increases that will compare with that. I shall take up now the cities mentioned.

First, they cited Memphis, Tennessee. Let me call your attention to the fact that our opponents did not show that the affiliation got that increase. The teachers themselves got that increase. In Oregon the teachers got an $800.00 increase, but they did not get the increase because of affiliation with the American Federation of Labor. In the Literary Digest of March 13th, it states that there are fifty cities wherein the teachers are organized, nineteen of which are affiliated with the American Federation of Labor, and only six got substantial increases. Referring to the Washington case, they didn't tell you that the teachers themselves got that increase; and I call your attention to the fact that we wrote to one of those locals in Washington and they denied that they were connected with the American Federation of Labor. As for New York—Miss Ollie Jones must be given credit for getting the increase in New York.

And let me tell you that in Chicago the teachers have been affiliated with the American Federation of Labor since 1912. What has labor done to aid those teachers? In Chicago we have yet the most undemocratic, the most arbitrary school board in the country. In Chicago the mayor still appoints the board of education. Labor has not aided the teachers in remedying those conditions. On Saturday, November 1, 1919, the teachers told the school board that their salaries were so low that they were destitute.

And now for this Teachers' Federation of Labor which our opponents would have you believe is such a wonderful organization. We can show you case after case in Eastern magazines where they are called Bolshevists and Radicalists. Here is a clipping from a magazine which reads:

"They are teachers of red tendencies and believers in direct action, radicalists, and socialists; and they are most active in seeking new members for their organization. The teachers' union is affiliated with the Central Trade Union. Opposed to them are the vast majority of teachers, who, while fully in sympathy with laboring people, believe a strike of school teachers would be no less objectionable than strike of police forces."

One thing more: this Teachers' Federation of Labor which is supposed to be so strong is an organization which cannot claim any great membership in any one state. It is so weak that it is not financially independent and the locals

themselves are not supporting it. I am not speaking lightly. I have the financial report of the American Teachers' Federation of Labor. It says, you will observe, that the organization is not self-sustaining, even with the assistance of the American Federation of Labor. There was a loan of $200,000.00 in January. It also reads, "some of those who have loaned us money in the past, wish to have the loan repaid;" and it goes on to state that the teachers' locals would not respond to the call. This shows that the very teachers who have become members of the Teachers' Federation of Labor now refuse to support it.

SECOND AFFIRMATIVE REBUTTAL

Robert M. Field, Texas

The opposition has declared that the American Federation of Labor is a socialistic organization. Here is a copy of the constitution of that organization, and I challenge the Gentlemen of the opposition to point to one single instance and show that it is socialistic in its character.

They declare that teachers in Chicago, who are affiliated with the American Federation of Labor, are under paid and their condition is worse than those of many cities where the teachers are not affiliated. Only two weeks ago the teachers in Chicago secured an increase of $500.00 a year.

Again, they declare that the Teachers Federation of Labor is not financially able to sustain itself. Is it any wonder that in opposition to the unorganized teachers and the established school boards this organization has not been able to make progress. They claim that in isolated instances the wages of teachers not affiliated with the American Federation of Labor have been increased. Please bear in mind that the wage proposition is only one principle of this subject.

There has never been a complete formation of a union between wage earners and intellectuals, the labor of the world and the teachers, between the brawn of the world and the brain; but it is just such co-operation as this that is essential to the welfare of this republic.

The Gentlemen deny that affiliation will raise teachers' salaries: this, in spite of the undisputed fact that the labor unions have raised the salaries and the teachers' salaries in Memphis, Tenn., St. Paul, Chicago, Houston, and other localities have been increased. A recent survey of the United States shows that of thirty-seven states reported, twenty out of the twenty-six states reporting increases in salaries had teachers' unions.

Ladies and Gentlemen the opposition continues to say that teachers' unions might be called out under strike. Under the constitution of the American Federation of Labor the Teachers' Federation of Labor retains its independence in regard to this matter in order to avoid all possibility of the American Federation of Labor compelling the Teachers' Federation of Labor to strike.

They say the Teachers' Federation of Labor is a social organization. In my main speech I pointed out that, admitting it might have made some mistakes, it is unfair to term it a social organization because it has fought the very evils that are threatening to check the spirit of democracy. The union radicalists declare that the organization is subservient to capital; while the capitalists declare that the American Federation of Labor is a radical organization and subservient to the socialists and radicalists. The most logical conclusion is that the American Federation of Labor has persisted in following a sane program throughout its existence.

The gentlemen declare that affiliation would aid the American Federation of Labor. Of course, it would. I have proven to you that it would be beneficial to both the American Federation of Labor and the teachers. And it will be more beneficial to the public at large by reason of a union between the laboring class and the intellectuals, which must be recognized as essential to the welfare of this nation. The Negative is for a professional organization: this in spite of the fact that the independent professional organization, with their appeal to the public, has failed conspicuously during the last hundred years. The independent organizations have brought on the very evils which exist today. And it is safe to conclude that independent organizations will never have more favorable cir-

cumstances than they have had during the last hundred years. Independent professional organizations can never hope to compress the chasms which exist between wage earners and teachers.

Taking the admittance from the Negative that teachers are under-paid, that there is a shortage of teachers, and that those we have now are not ably prepared to carry on their tasks, the question is whether or not there shall be an organization with affiliation or without affiliation. It means one efficient organization, or an inefficient organization. There can be but one choice. and that is one with affiliation.

SECOND NEGATIVE REBUTTAL

J. F. Worthen, Utah

Ladies and Gentlemen: Let us consider at this time the main arguments that have been advanced by the Affirmative side and see wherein our arguments have met them. The Affirmative, as announced by the first speaker, set out to prove four main issues: First, that there are evils in the present educational system; that among these evils are insufficient salaries, together with the fact that teachers do not have freedom of thought. Secondly, that the evils have not and cannot be remedied under the existing conditions, or by teachers organized along professional lines. Thirdly, that teachers ought to affiliate with the American Federation of Labor because affiliation has remedied those evils. And fourthly, that affiliation has been accompanied by no new evils. Let us consider these issues one by one.

In the first place, that there are evils in the present educational system, Ladies and Gentlemen, we cannot deny; but the proof of evil in our present system is not the proof that affiliation with the American Federation of Labor is going to solve those evils. We have shown you that in the states even where affiliation has taken place—even where salaries have been increased—that those salaries at the best are only temporary, that the real increase in salaries can only come by an aroused public opinion. Ladies and Gentlemen, the

establishing of these evils does not establish the need of affiliation. What is the magic in this word affiliation that is going to place the teachers upon a firmer economic basis, that is going to raise their salaries, and that is going to give them freedom of thought and action? Ladies and Gentlemen, it cannot be done. The only way you can permanently raise their salaries is by such as you voting for increased taxation—voting that your constitutions may be amended. And didn't we show you that the best way to carry on such a campaign is by an unaffiliated organization that does not owe allegiance to any labor organization, or any political organization, but which shall be independent? The opposition is laying particular stress on the fact that the present professional organization has not corrected the existing evils. What if these conditions have not been corrected? Ladies and Gentlemen, we told you that the organization—the professional organization of teachers—was going to be completely reorganized; and even if they have to continue fighting against great odds, wonders will be accomplished.

I wonder how it is that they place all of these evils upon the National Education Association. It is not fair. They are due to the fact that the teachers themselves have not gotten out and done their part of the work. They have not taken enough interest in their own welfare to put the proposition up in the right light before the American public.

They mention the autocratic school boards. We said we admitted that there may be a few of such school boards in the United States, but according to this committee report which I referred to in my main speech, there is admirable co-operation between the school boards and the teachers. The report was made that in nearly every case the school boards were behind the teachers, but did not know where the money was coming from. Then in regard to autocratic school boards, let me refer you to the statement of Miss Jones in New York, who was cpposed to the American Federation of Labor. Her statement in the record of proceedings of the National Education Association shows that every principal was with them, that the school board was with them and did everything in their power to help them.

Now considering the third claim—that affiliation has remedied the conditions. I told you that even though there

may have been increases in salaries, they are temporary; and the only thing that is going to permanently better them is the amendment of constitutions.

Fourthly, that affiliation has been accompanied by no new evils. These evils cannot be pointed out to-day. Teachers may enter the American Federation of Labor and receive salary increases, but the very act of their affiliation is undemocratic as it is demanded by the constitution that they support strikes. The evil results of this feature will show up some time in the future, even though they are not apparent now. And remember that school teachers in the Teachers' Federation of Labor may not strike themselves, but they must appropriate money for the support of strikes; and this is nearly as bad as taking it upon themselves to strike.

AFFIRMATIVE REJOINDER

Robert M. Fields, Texas

In this debate the Affirmative has based its stand for better schools upon four fundamental propositions:

First, that serious evils exist in the present educational system, which the Negative has admitted. They have not denied that there is a shortage of teachers and that those who remain in the schools are not ably prepared for their work. The Affirmative has further established the fact that, secondly, teachers organized along professional lines have never been able to remedy the evils. The Affirmative has proved, thirdly, that teachers should affiliate with the American Federation of Labor because affiliation has been tried and has remedied the very evils which the present independent professional organization has not only failed to remedy, but shows no prospect of remedying in the future. Teachers must affiliate with the American Federation of Labor because it is the only non-teaching body to which they can turn. In this field of education the American Federation of Labor has achieved the greatest reforms in the modern world since the abolition of slavery. And lastly, the Affirmative has proved that affiliation has not brought along evils of a fresh order.

In response to repeated challenges the Negative has remained silent. They have not shown that affiliated teachers have been prejudiced against superintendents, or against the tax payers who support them. On the contrary, the Affirmative has proved that by reason of affiliation, teachers have gained that self-respect and poise and power which are so essential to real co-operation in the school system. In the face of these facts the Affirmative concludes that teachers should affiliate with the American Federation of Labor in order to raise the teaching profession from its present lowly status as the sorriest of trades to its legitimate place as the noblest of professions.

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CHAPTER IV

COMPULSORY ARBITRATION OF RAILWAY LABOR DISPUTES

UNIVERSITY OF REDLANDS

versus

LELAND STANFORD JUNIOR UNIVERSITY

RESOLVED: *That all railway labor disputes should be submitted for arbitration to a Federal Board with compulsory powers.*

This is a stenographic report of a debate between an Affirmative team representing the University of Redlands, and a Negative team representing Leland Stanford Junior University, held at Stanford University, April 6, 1920. The decision was in favor of the Affirmative. This report was secured thru Miller L. McClintock, Instructor at Leland Stanford Junior University.

BRIEF

COMPULSORY ARBITRATION OF RAILWAY LABOR DISPUTES

AFFIRMATIVE

INTRODUCTION:

A. Compulsory arbitration is a method of settling strikes as they actually arise and is independent of any discussion relative to removing the fundamental causes of strikes.

B. In this debate the question is limited to compulsory arbitration of railway labor disputes only and does not apply to any other industry.

I. Compulsory arbitration of railway labor disputes is necessary to safeguard the rights and welfare of the American people.

A. The food supply of people in the cities and the continuance of industry is absolutely dependent on transportation.

1. To stop operating the railroads for even a few days can work serious hardship.

B. The railroad men have threatened to do this repeatedly unless their demands were granted.

1. In such cases capital has often refused to operate.

C. The United States government would fail in its obligations to the people if it did not protect its citizens from such dangers as would be caused by a railroad strike.

II. Compulsory arbitration of railway labor disputes is practicable.

A. It can be enforced.

1. The decision of the board would be binding on both parties.
2. If any brotherhood attempted to strike its property would be confiscated and the union dissolved.
3. Any company refusing to comply would have its property confiscated and go into the hands of receivers.

B. It will preclude the necessity for railway strikes and lockouts.

1. Compulsory arbitration would not compel any man to work against his will but would prevent the strike.
   a. Removing the possibility of forcing the employer takes away the reason for strikes.
2. The majority of workmen will support it.
   a. It will give justice to both parties and so lead to satisfaction.
      (1) The sane judgment of a court would be substituted for a decision forced by violence.

III. Compulsory arbitration is the only safe and sure solution of the railroad problem in this country.

A. The fundamental duty of the Government is to protect its citizens.

1. The rights of labor and capital end where the rights of the public begin.

B. Compulsory arbitration of railway labor disputes is not new and untried in the United States.

1. The Adamson Law was virtually an application of compulsory arbitration to the railroads.
   a. It was a Congressional Act of compulsion.
   b. It succeeded in settling by compromise a serious railway labor dispute.

C. Now that we are proposing to end war between the nations it is folly to allow a dispute between a company and its employees to be settled by brute force.

NEGATIVE

I. Labor is absolutely opposed to the principle of compulsion.
   A. The railway leaders are not radicals but are men of years of experience and have grown to be conservative.
      1. They are opposed to the principle of compulsion.
   B. Such a policy would devitalize the unions.
      1. The advantage of any union is its ability to do collective bargaining and this is made possible by the right to strike.

II. Compulsory arbitration would be inexpedient.
   A. The various brotherhoods, realizing that their unions had been shorn of their strength would be in a continual state of dissatisfaction.
      1. The logical result would be discord, anarchy and sedition.
   B. Compulsory arbitration would increase strikes and foment general unrest.
      1. Labor and capital are both firmly opposed to it.
      2. Arbitration does not touch the fundamental causes of labor disputes.
      3. Labor and capital can only be coerced by force of public opinion.

III. Compulsory arbitration has failed wherever it has been tried.
   A. It has failed in New South Wales where more plans have been tried than in any other country.
   B. The experience of Canada would tend to show that compulsory arbitration actually increases strikes.

IV. Economists are mostly against it.

COMPULSORY ARBITRATION OF RAILWAY LABOR DISPUTES

UNIVERSITY OF REDLANDS

versus

LELAND STANFORD JUNIOR UNIVERSITY

FIRST AFFIRMATIVE

Fred D. Fagg, Jr., Redlands

Honorable Judges, Ladies and Gentlemen: In following the considerations of this debate throughout the country, we have found that in the majority of cases the discussions have consisted in much haranguing over terminology and interpretation. For this reason we desire to indicate the position of both sides to this debate, so that the issue may be clearly understood.

The question, Resolved: That all railway labor disputes should be submitted to a Federal Board of Arbitration with compulsory power, deals with a method of settling disputes which do arise, and is quite distinct from any discussion relative to removing fundamental causes of strikes and industrial dissatisfaction. The question clearly expects strikes and lock-outs and other forms of industrial dissatisfaction. If conditions were so ideal that no disputes arose, there would be no need for debating this question. But we can conceive of no Utopian conditions obtaining in the near future wherein there shall be no friction between labor and capital. Observation of human nature shows that what has taken place in the past is likely to happen again.

The Affirmative is prepared to show that compulsory arbitration is the best and most practical method of settling labor disputes. The Negative believes otherwise.

Any legislation which will lessen the number of the disputes belongs no more to the Negative than the Affirmative. Compulsory arbitration will never bring about that feeling which will remove the fundamental cause of strikes.

The Gentlemen of the Negative can not establish their case on a program which removes the cause of strikes. Such a program could only be effective at some future time. They must have something which will be effective now. Their duty is to support any proposition which does not prevent the right to strike. The question is, has labor a right to strike, or has it not? They are forced to defend the right to strike; when they fail to support that right they advocate compulsory arbitration and lose their case. Gentlemen of the Negative, if our courts are so corrupt, our entire system of jurisprudence so unjust, the American people so unfair, that labor can obtain justice only by mean of organized strikes, then do not try to cover it up by any measures whatever. If they are not, then tell us why the American people should be subjected to the whims of labor and capital. If you permit the strike, you must also defend it. You must comply with the evil instead of preventing it. What we want is consistency.

We find it common for the first speaker of the Negative to depict in harrowing details the poor working man and his family, in want and poverty. That paves the way for the third speaker to speak of the involuntary servitude permitted in a democracy. But when we speak of railway employes, we are not dealing with the poor, underpaid laborer. We are dealing with the highest type of paid labor in the world.

In advocating compulsory arbitration for railroads, we do not wish to go on record as being opposed to or in favor of compulsory arbitration in any other industry. The question limits the debate to railroads, and, as I have previously stated, the question of remedying the fundamental cause of strikes belongs as much to the Affirmative as to the Negative. We are ready to accept any program which would solve our railroad problem. We advocate compulsory arbitration to work with any of these plans which may be practicable, but we want at the same time to defend the American people against the inconvenience caused by interference with transportation. Our plan does not deal with minor differences between labor and capital, but is the final court of appeal for any dispute which has failed before the courts. No dispute will come before this court until it has failed before. When capital cannot reconcile their differences by some voluntary measures, but threaten to strike, compulsory arbitration says:- *We, the people,* not, *We, the railroad brotherhood.*

Friends of the decision, we advocate compulsory arbitration, for while we believe absolutely in the rights of labor, and while we believe absolutely in the rights of capital, we desire some consideration for the rights and welfare of 110,000,000 of American people.

In 1910 the railroad brotherhood said: If you do not grant to us the wage increase which we demand, we will call out thirty thousand men and New York will not have a bite to eat—New York will starve to death. That is labor's right. Yet the Negative defends the right to strike. When the very life of the nation has been threatened by some dispute, capital sitting behind closed doors says there is nothing to arbitrate. Consider the meaning of the railroad strike. The railroads are the only means we have of forwarding food to large cities; the only means of providing the manufacturer his raw materials, the consumer his goods. In our complex system, to stop transportation one hour is serious; when you stop transportation for a week, or a month, you stop the industries, you deprive thousands of people of their means of livelihood, and bring starvation into every city in the United States. It is idle to contend that the demands of the highest paid laborers in the world are so vital that it is just for them to do all this. Even the radical elements of labor are divided in favoring such measures. The Gentlemen of the Negative are advocating the right to strike. We believe that the American people recognize the rights of labor and the rights of captial, and we know that when labor and capital try to make their issues paramount to the rights of the nation the people stand behind their Congress and their president.

Take the case of the Adamson Law passed in the fall of 1916 which settled by compromise a specific dispute. This was federal compulsory arbitration. Did it work? Yes. The people of America realize the welfare of the whole is paramount to the demands of any part. They will resist any strike which ties up not only the industries but which cuts off their food supplies. It is our duty to provide the legislation necessary to prevent such strikes. If American jurisprudence cannot compel men to settle their disputes without violence, if the United States government fails to provide adequate protection for its citizens, it fails in its obligation to them.

We have stated our case clearly; we have held back nothing.

We now request that you avoid extraneous matter to justify your position and present your plan. If it will settle railroad labor disputes, show us how. If it has merits, let us hear them. We await your pleasure.

FIRST NEGATIVE

J. H. Anglin, Stanford

Honorable Judges: The question under discussion this evening deals primarily with the railway employes and employes of the railroad industries. My worthy opponent spent a considerable length of time speaking of the horror of strikes and brought in the coal strike and several other forms of strike as well. We must remember that we are discussing the labor situation in the railroad industries, and that the plan of the Affirmative is that compulsory arbitration should be adopted as a means of settling disputes between railway employes and railway officials.

Now we agree with the first speaker of the Affirmative that in dealing with railway employes we are not dealing with ignorant unskilled men. Are there any characteristics which distinguish the railway employe from various other groups of laborers? We contend that there are. In the first place, the men whom the railways employ must have several years of experience before they become operators. Those actually engaged in the operation are organized in various brotherhoods. They are possessed of skill and experience which makes a line of demarcation between them and various laborers. Now, after a period of eight, nine, or ten years, they have grown to be conservative men. Many of the superintendents, managers, and presidents of the various railroad systems throughout the United States have gone from the bottom of the ladder to the top.

R. H. Ashton, Director of the Northwestern Regional, started at the age of 18 as an axman.

Samuel Rea of the Pennsylvania Railroad started at the age of 16 carrying a chain.

H. E. Bryam of the Chicago, Milwaukee, and St. Paul road started as an office boy, and so on. We could enumerate dozens who started at the bottom and have gone to the top. By long apprenticeship these men have become of the conservative type.

In the *Survey* of August 16, 1919, the Editor said of them:

"In training, in character, in stability, the railroad brotherhoods stand at the fore. In every community members of the organizations are men of substance, of reputation, of influence with their fellow men."

In the *New Republic* of August, 1919, appeared the following statement:

"Leaders of the brotherhoods are not revolutionists, not socialists. They represent as conservative an element as anyone can find in the labor movement. They are moderate, opposed to violence; they know the personal dangers of the strike. They are not pushing the men."

W. N. Doak, in the *Proceedings of the American Academy of Political Science,* January 20, 1920, stated:

"After a study of all the plans and all forms of mediation, conciliation, and arbitration in the civilized world, I have come to the conclusion that there is only one country that handles the labor question on the railroads properly, and that country is the United States of America."

In the *Current Opinion* for May, 1917, James B. Morrow said of the leaders of the brotherhoods:

"They are all American—born and bred—and stand four-squared in the matter of patriotism."

Thus, from authorities and from the general trend of opinion, we find that the railway brotherhoods are of the most conservative type. In order to understand the type of men with whom we are dealing, let us take up the Brotherhood of Locomotive Engineers. The men of that Brotherhood are possessed of skill and experience. Many of them have a full realization of the fact that every day the lives and fortunes of hundreds of passengers are entrusted to their skillful guidance. New men can not take their places in a single day or single year. Skill and long apprenticeship are demanded. Their organization is strong, and their effectiveness as a union depends upon their ability to secure reasonable demands. Now these brotherhoods have a right to strike. The strike in most cases does not take place, but the preservation of that right is adequate to secure their position. Any plan of compulsory arbitration as put forth by the Affirmative presupposes a tribunal where the disputes between labor and capital would be settled. And labor will not agree to

this because the element of compulsion is contrary to the fundamental laws for which our country has stood.

W. G. Lee, President of the Brotherhood of Railway Trainmen, stated:

"We will fight a compulsory arbitration law as long as we have breath to fight anything."

President Taft has said: "Labor's distrust of courts is not only deep-rooted, but well-founded."

Labor is antagonistic toward the element of compulsion because it devitalizes the unions. Having lifted themselves out of the stage of servitude, the workers are reluctant to subject themselves to exploitation at the hand of capital. The advantage of any union is its ability to do collective bargaining, and collective bargaining is made possible by the right to strike. Either compulsory arbitration will destroy the railway brotherhoods by making it an unequal struggle between capital and labor, or else it would be highly impracticable for the people of these United States to adopt such a system which would lead to an inevitable state of warfare. Labor will not accept compulsory arbitration, because such a system would destroy its organization.

Garretson, who, in the words of James B. Morrow is "an accurate thinker, a skilled analyst, a student of history and economics, a materialist, and a sentimentalist," has stated, in relation to the effect that compulsory relation would have on the railway brotherhoods:

"Take from the unions the right to strike when necessity demands and you have devitalized the union."

Not only in the railroad industries, but in all other industries as well, we see labor exploited by the attempts of capital to crush out their organizations and allow such institutions to exist as capitalists deem necessary. Railway brotherhoods represent the highest efficiency of union workers in the world today. They will not sanction any system which destroys their organization.

Would a system of compulsory arbitration be expedient? Would it lead to industrial harmony and peace? The demands of the brotherhoods are sometimes justified and sometimes not, but in either case the disputes, some ending in strikes and others in lockouts, reached a head because labor felt that it was being mistreated at the time. The system proposed by the Affirmative advances a much greater evil. The various brotherhoods, realiz-

ing that their unions had been shorn of their strength, and that their duty from now on was to work in a state of servitude with absolutely no say as to their conditions except in a tribunal, would be more dissatisfied than ever; and the workmen, realizing that no step which they could take could be worse, would follow the vicious steps of irresponsible leadership. The logical conclusion would be discord—a state of anarchy and sedition. The whole conservative element, the men who have stood for righteous and fair dealing, would be overthrown; in the hands of the radicals the railroads would come to a standstill, and all the suffering depicted by the first speaker would result.

We do not contend that the United States Government cannot enforce its demands by force. But such a course would be highly impractical. The awards could be enforced with the use of arms—with muskets pointed. But is such a course the right way to go about securing industrial peace and harmony? If the question was put to you, Is a system of compulsion conducive to the highest efficiency? what would you answer? No. So with labor; it will not sanction any system that destroys its right to justice.

SECOND AFFIRMATIVE

Raymond E. Untereiner, Redlands

Labor will never sanction any plan which destroys its right to justice, and we would never advocate such a plan. We are advocating tonight a plan that will establish a federal tribunal where labor can get justice without having to go out and destroy railway structures in order that what they believe to be justice may be theirs. The preceding speaker spent a great deal of time pointing out the fact that railway workers are well organized and conservative men. Then they are just the type of men that will be willing to accept our plan of compulsory arbitration; they will be willing to accept a legal plan of getting a fair deal; they will be willing to give up their plan of going out to jeopardize the rights of American citizens. After showing that railway workers are well organized, he showed that a plan of compulsory arbitration will destroy their organization. But our proposition plans to give that organization a legitimate way to function through American courts and

under American loyalty. You haven't destroyed their organization by doing that—you have legalized it and made it worth while. He says, further, that in addition to destroying the organization, our plan will cause dissatisfaction. But the only reason they believe that our plan will cause dissatisfaction is because they believe our plan will attempt to make men work against their wills.

Our whole government is based upon compulsion. It is based upon compulsion that has a foundation in reason. The people will accept compulsion to do the right, because it is necessary to the welfare of the whole, and we will persuade you that our plan is based upon compulsion and that compulsion is based upon justice, and each of them gets its source from the compulsion that the United States government takes its source.

The first speaker pointed out the menace of the railway strike and lockout to the welfare of the American people; it is my privilege to show the practicability of our plan—to show how it will prevent railway strikes and lockouts. The opposition have based their case thus far on the idea that compulsory arbitration will lead to dissatisfaction on the part of the working man. This proposition is based upon the fundamental belief that railway workers will not get justice in American courts, for if they can get justice through the courts they will not desire to return to the crude and barbarous methods of the strike. It is based upon the belief that American courts are not capable of deciding things for the American people, and workers therefore have to go out and use these means of jeopardizing the welfare of the American people in order to get a square deal. We believe that compulsory arbitration is a practical solution to our problem because it can be enforced and because it will preclude the possibility of railway strikes and lockouts. Congress had already, in enacting the Cummins Law, established a commission with full power to act on railway disputes. But before the final passage this provision was dropped for political reasons. We merely advocate the return of this federal commission. The decision of the board would be binding on both parties, and there would be no recourse to methods of force. In case any brotherhood attempted to strike its property would be confiscated and the union dissolved. Any company refusing to comply with the decisions of the board would have its property con-

fiscated, and such property would go into the hands of receivers.

While we admit that in some cases the decisions would be difficult to enforce and would lead to dissatisfaction and lack of harmony—the harmony which we realize is necessary to satisfactory industrial relations,—the protest of the Negative is based on the fundamental conception that compulsory arbitration will result in involuntary servitude. There is a difference between stopping work and going on strike. The right to work or not to work belongs to any man, and to take this right from any man would be undemocratic, unreasonable, and unjust. What we try to prevent is the right to strike. When people strike they refuse to work and refuse to permit others to work. The idea is to cause confusion and disorder, to get concessions from their employer. When they stop, they try to disrupt the transportation system of the country. Compulsory arbitration would not compel any individual to work against his will, but would prevent the strike. The men can gain nothing by refusing to work; they could gain no concessions by stopping work. When they went back it would be on terms determined by a federal board. Take away the possibility of forcing the employer, and you take away the reason to strike. When they can not gain concessions from their employers, they will not try to cause confusion and disorder. Compulsory arbitration would not endeavor to compel any individual to work. When it does away with the strike it does away with the tie-up. It is the practical solution.

Another assumption is that because a few railroad workers are jealous of their power, and wish to fight the plan now proposed, the workers would oppose it when it was enacted into law. Is it true that workingmen can obtain higher justice by throwing bricks and destroying machinery than by submitting their grievances to law courts? Is it that they cannot get justice from courts? If it is not, then why should they desire a return to barbarous and crude methods? If they can obtain a fair deal through the courts they will be satisfied, providing they want a square deal and are not looking for impossible concessions. If the leaders are the men that the Negative claim them to be, there is every reason to believe that they will be representing their constituents fairly and that they will be able to work satisfactorily through courts of law. If

they are not, they are not to be entrusted with the right to disrupt the entire transportation system of the country by strike. Compulsory arbitration, by giving justice to both parties, will lead to satisfaction.

We submit therefore, Honorable Judges, the plan for compulsory arbitration as a practical solution of our problem. It would keep railway workers on their jobs, not by compelling them, but by destroying the benefit of the strike. It would lead to greater satisfaction and cooperation by substituting the sane judgment of the sober court for the frenzied decision of violence.

But there are some who refuse to be convinced. They say that in the last analysis the railway workers would refuse to abide by the dictates of the American courts and that in such emergency the government would be helpless to enforce the decision. To believe this to be labor's attitude is an insult to the character of the working man. But we are here to consider every possibility, because we are sincere in our endeavor to arrive at a final decision, so that when we do arrive at a decision we may be confident that it is valid. We will assume, therefore, that at some far-off time some condition might arise which would cause the brotherhoods to refuse to abide by the law. Could our plan be forced? Yes. If it took every man and every dollar in the United States army and treasury to enforce it. That act would be rebellion and would have to be treated as such. But there is no more probability that the railway brotherhoods would rebel against the Government than that the State of California would do so.

If there is strength and stability in the American government, compulsory arbitration can and will be enforced. So we submit it as a practicable plan.

SECOND NEGATIVE

Lauder Hodges, Stanford

The first speaker of the Affirmative this evening brought out that the railway brotherhoods are conservative groups of men. In fact he agreed with our speaker that the railway brotherhoods consisted of men to be respected. There was

then a change of attitude in the opinion of the Gentlemen of the Affirmative, and in the last speech we have heard the men of the railway brotherhoods referred to as perpetrators of barbarous strikes, as men who throw cobble stones, who wreck machinery, and who destroy the operation of our railways. I challenge the Gentlemen of the Affirmative to produce evidence of any national strike where these men have stooped to such measures. The men of the railway brotherhoods are not of that type.

The first speaker made some reference to the Cummins Bill in which he said that the Cummins Bill, providing for compulsory arbitration of railway labor disputes, was omitted for political reasons. We are obliged to challenge that remark. The Senate and House of Representatives who framed the bill as a solution for our railway problem, knew the great danger that would result from the Cummins Bill. There were no political reasons for its disposal. They were based on sound common sense.

We of the Negative are opposed to compulsory arbitration because enforced arbitration instead of doing away with strikes and lockouts increases strikes and foments general industrial unrest. The Gentlemen of the Affirmative have assured us that the purpose of compulsory arbitration is to do away with strikes. We can not agree with them. We believe that compulsory arbitration can only make matters worse by aggravating the parties to the dispute. We do not question the right or the power of the public to insist that all railway labor disputes be arbitrated, but we do insist that the application of such a right in this country would be unwise.

We have seen that labor is opposed to compulsory arbitration. It is my purpose to examine the opinions of employers of railway labor to ascertain if they would readily accept the passage of a compulsory arbitration law. If both labor and capital are opposed to compulsory arbitration, there must be some basic reason for their opposition, and their counsel should be seriously weighed before enacting a provoking measure.

Let me quote the expressions of opinion of leading railway managers as an indication of the feeling of the great majority of men actively faced with the problems of railway labor disputes. A few years ago the Railway Age Gazette, the chief exponent of the employers' point of view on railway matters,

conducted a discussion of the merits and demerits of compulsory arbitration of railway labor disputes, and in the course of the discussion various officials of the leading railways wrote the editor giving him their opinions. The railway executives were uniformly opposed to compulsory arbitration, not from any hasty or ill founded premises, but from years of practical experience in handling labor disputes.

For instance, the president of the Wabash lines, Mr. P. A. Delano, wrote his conclusions to the editor in the following statement:

"I am well aware, and fully appreciate, that under any arbitration agreement there is nothing but good faith on the part of the employer or the body of employes to make it effective."

A similar statement, representative of the opinion shared by every official who contributed, was made by F. O. Melcher, speaking as the vice president of the Rock Island System. He said:

"The strength of the Erdman Act consists in the fact that it does not contemplate compulsory arbitration. Compulsory arbitration must be distasteful to both the railways and the employes."

Another source of authoritative statements of railway employers, illustrating the common belief that compulsory arbitration of railway labor disputes should not be adopted in this country, is in the Reports of the United States Industrial Commission, which has been making a comprehensive and detailed investigation of all phases of industrial problems. In volume four is a digest of the opinions of leading railway officials, from which I quote:

Samuel R. Calloway, President of the New York Central Railway system, who, by the way, commenced as an officer on the Grand Trunk, is quoted as saying: "Compulsory arbitration is out of the question. There is no way of compelling the men to work if they do not wish to. I have no objection to voluntary arbitration, or to investigation."

Edwin Walker, Chairman of the Board of Directors of the Santa Fè submitted a detailed argument against compulsory arbitration. He believes that "arbitration which is compulsory is a contradiction of terms. The laborers can not be effectively bound by the decision of the arbitrators."

Charles Francis Adams, President of the Union Pacific,

testifying before the Committee on Interstate and Foreign Commerce, summed up his conclusions on the subject by saying: "In fact, the word compulsion has an unpleasant sound to Americans. In theory only is the thing popular. With us the final appeal must always be to reason; public opinion enforces the edict of that appeal. In every field of legislation this has been again and again illustrated, and yet the appeal to reason, as now here made, is almost as invariably as contemptuously dismissed from consideration on the ground that there is behind it no force to compel obedience."

These opinions are characteristic of almost all railway officials in the United States. They are significant not only inasmuch as they indicate a decided opposition to enforced arbitration on the part of the managers of the railways, but also in that most executives have not confined themselves to making merely negative remarks. On the contrary, they have taken pains to indicate that there is good reason why compulsory arbitration should not be adopted in the United States.

Those who, like the late Mr. Ripley of the Santa Fè, are not only railway managers, but students of the economic and social laws governing the railway industry, have voiced their opposition to compulsory arbitration as being founded on two grounds. They maintain that the reason for the failure of all means of arbitration is that arbitration does not go to the basic faults of labor conditions. In the words of Judge Ben. B. Lindsey, they maintain that "strikes will continue to break out until you go deeply into fundamental questions concerning rights of property and rights of humanity." The railway executives, contrary to popular expectation, do not ignore this principle, but concur with him in his belief, that compulsory arbitration can not do away with strikes until basic faults are remedied; and after basic faults are removed, there will be no need for compulsory arbitration.

The second ground of opposition is that voluntary arbitration and investigation are more in line with remedying fundamental defects than is compulsory arbitration. These men recognize that after all is said of the theory of compulsory arbitration, the fact remains that the public is the ultimate tribunal to which the parties to a controversy must submit; regardless of the presence of compulsion by legal means, as a

factor of arbitration, the parties can not be coerced but by the force of public opinion. In the words of President Delano of the Wabash Railway: "Either party to an arbitration agreement might refuse to be bound by that agreement, and good faith of the parties and consciousness of the force of public opinion are the only effective agents of compulsion."

Honorable Judges, we must heed the advice of these experienced employers of railway labor. A law providing for compulsory arbitration of railway labor disputes should not be enacted, for not only railway labor is opposed to it, but the railway executives are opposed as well.

THIRD AFFIRMATIVE

Vernon Green, Redlands

The Gentlemen of the Negative contend that compulsory arbitration is not necessary; that the railroad situation today does not demand it. I refer to the act of the Injunction and the use of the Adamson Law. They contend that compulsory arbitration is not necessary; here is a specific case where it was necessary. They contend that Congress and the United States President oppose it; here is a specific case where they favored it. They contend that labor and capital will not accept compulsory arbitration; here is a case where they did. They contend that it will not be supported by the public; here is a case where it was supported.

John Mitchell says: "The success of compulsory arbitration depends on the stability, strength and wisdom of the American government." Honorable Judges, for this reason the Affirmative believes that compulsory arbitration is the only safe and sound solution to the railroad situation in this country. If we accept the Negative's narrow and confining interpretation of this question we have no case. They have tried to say that the United States must settle all mediocre, back-yard disputes. That is not within the range of compulsory arbitration as considered tonight. We did not come here to emphasize compulsory arbitration in minor details. We have come to debate a grave problem—the right of labor to strike and of capital to

form lock-outs, their right to interfere with production, with the distribution of the necessities of life, their right to imperil the lives of American citizens. We want to make it plain that we favor any plan which deals with the solution of this problem; we are willing to consider any plan which goes to the bottom of things and removes the basic animosity which exists between brotherhoods and roads. But we want to make it plain that some system is necessary to take the place of strikes, to settle the chronic disputes until other plans have eliminated all cause for industrial friction. Before going any further, we want the Gentlemen of the Negative to answer three questions.

1st. Are American citizens entitled to the necessities of life if they have the ability to pay for them?

2nd. Has any single industrial faction in this country, railroad brotherhood or otherwise, a legal or moral right to use methods in the settlement of their disputes which deprive these citizens of the necessities of life?

3rd. In case the railroad brotherhoods of this country authorize a system denying these citizens the right to life, would you regard it as just, as being in harmony with American law?

We are willing to accept our fair share of obligation in this discussion tonight, but along with this obligation comes a great negative obligation in support of the strike. They must vindicate the Prussian doctrine that "necessity knows no law". That force is better than honor; that American citizens have no faith in American law and American government; that our court systems are shams and pretences, and that the brotherhoods haven't intelligence enough to plead a case before the courts. This is their case. If they can prove that the political and social construction of these United States is fundamentally wrong, then we shall admit the error of our position and resign in favor of justice characterized by brute force.

In establishing the justice of this case we shall assume that the fundamental duty of the government is to protect its citizens. That the American government, which protects us from foreign foes, has both the legal and moral right to maintain a permanent court in this land where the controversies of all men may be heard, and where the rights of all American people may be fairly and justly protected. The citizens of this coun-

try are beginning to recognize the fallacy of allowing a company of brotherhoods to be able to [avenge] their grievances with American life and property. They are beginning to recognize that the liberties of capital and labor end where the rights of the nation begin. The brotherhoods have intelligence enough to plead a case before a board with compulsory power. The program of the Affirmative tonight is not new and untried in the United States. It has been condemned by the Negative as injurious and unfair. It has been criticized only as a breach of congressional authority. I refer to the Adamson Law. While Congress today will not openly support anti-strike legislation affecting railroad administration of this country, we have a Congress which will not permit a tie-up of the transportation of this country. We have to handle the situation. We have a President and Congress which say: You can not strike and conspire against the rights of the American citizens; and labor and capital must come across. We do not call it compulsory arbitration, and yet that is what it is. The Adamson Act was passed in the fall of 1916, avoiding a railroad strike which would have paralyzed the nation. It was a congressional compulsion act. It was the first time in the history of the United States that Congress ever had to transgress its authority in order to pass an act to protect the lives of American citizens, and it ought to be the last time, for in that act Congress assumed the position committed to the judicial department of the government. The conclusions which we wish to draw are:

1. Congress was forced to extend its authority due to a lack of general anti-strike legislation.

2. That Congress and the American people in the final analysis demand justice and will not permit a railroad strike.

3. Congress has both the legal and moral right to legislate against railroad strikes.

4. Labor and capital are willing to abide by such decisions.

5. That some general compulsory arbitration legislation is necessary to proper and final settlement of railroad labor disputes.

The Adamson Act settled by compromise a serious railroad dispute. It was an attempt on the part of the President and Congress to do the work of a compulsory court. It was a make-shift pure and simple for compulsory arbitration.

We question whether the rights of 500,000 of the highest paid men in the United States are paramount to the rights of 110,000,000 of American citizens. We do not contend that labor and capital shall not have better conditions. We do not contend that labor and the restless elements of society shall not have more. But we do contend that they shall not imperil the lives of 110,000,000 of American citizens to get what they want. It is a crime against humanity and an insult to American government to say that the brotherhoods of this country stand ready to draw the nation into civil war to get what they are entitled to. We are about to cancel war between nation and nation, and yet we allow a dispute between a company and its employes to be settled by brute force. The happiness of the people, the right of the people to life, is superior to the right to strike. The wheels of industry shall never again cease in an attempt to gain concessions. We believe in justice for labor, but not by the means of the strike; for capital, but not by means of the lockout.

THIRD NEGATIVE

T. W. Irwin, Stanford

The Affirmative have outlined our case very nicely. They have told us that we must answer three questions. They have also told us that we must give some substitute plan for compulsory arbitration, to bring about industrial harmony. It is not necessary for us to answer the gentlemen's questions as to whether or not every American citizen has a right to buy the necessities of life or whether or not the railroad industry has the right to deny them that right. It is not incumbent upon the Negative to answer any of those questions. They also want some substitute plan. According to the rules of debate, the Negative may follow one of two courses. Either it may offer some alternate plan better than the one proposed, or it may disprove the Affirmative plan. We are debating tonight the question, Would compulsory arbitration in the United States be advisable? We are not debating a question which involves a choice between two plans, but we are debating whether or not compulsory arbitration is justified. It is with this end in

view that we choose to ignore absolutely any demand on the part of the Affirmative for a substitute plan. The Affirmative have stated that they hope to persuade you before the end of the debate that compulsory arbitration is advisable. We have noticed in looking up many periodicals and books that the majority of the employers and employes have failed to become convinced of its advisability. And if they have failed to be convinced, how can anyone else be convinced. We intend to show you that it has been proven a failure wherever it has been tried. Both employers and employes regard the proposed plan in an unfavorable light. The plan meets with the disapproval of the economist.

We are more or less familiar with plans for compulsory arbitration as tried in Australasia. We can turn there for information regarding the success the plan has met. It would be impossible to discuss the different plans of all the provinces, and therefore, because New South Wales has tried more plans than any of the other states, we will try her.

Industrial arbitration was first introduced in New South Wales in 1891 under a voluntary plan. Because of dissatisfaction with the plan, they adopted another measure in 1901. This act was replaced by the Industrial Disputes Act of 1908, which created a wages board and industrial court for every industry. This again was replaced by the Act of 1912. The very fact that each of these plans was abandoned with such punctual regularity proves the failure of compulsory arbitration. The average life of each plan was seven years. Is there any indication, when these plans have met with such pronounced failure, that it would be advisable to put such a plan into effect in the railroad industries in the United States? Under the plan now in operation in New South Wales more strikes took place in the year 1914 by five times than took place in Canada where arbitration is voluntary. In New South Wales there were 235 strikes in 727 working days, while in Canada, where arbitration is voluntary and applies only to public agencies, there were 44 strikes in 440 working days.

All this would indicate that compulsory arbitration has augmented industrial unrest; that industrial peace is not a result of compulsory arbitration. It is believed by some that no parallel can be drawn between the United States and New

South Wales. This parallel can be drawn because the plan in each case provides for the settlement of disputes by compulsion. When a plan has been adopted in which compulsory arbitration involves the creating of a wages board and industrial court for each industry, and when that plan is replaced by another, it would indicate that the plan is a failure. The Act of 1908 created a wages board and an industrial board for each industry, and it was abandoned in 1912.

We must bear in mind that the proposed plan has failed to bring about any degree of success. Let us consider the attitude of economists toward the plan. Until recent years the opinions of the economist bore very little weight. But lately the opinion of the economist has come to bear considerable weight in almost any question.

Frank W. Taussig, Professor of Economics at Harvard University from 1901-1917, has written the following in his book, *The Principles of Economics*: "The serious difficulty would be that of the enforcement of the decisions. Here, as in the case of general arbitration, enforcement against the employer is feasible; but not so against the employes. In practice the real efficacy of compulsory arbitration, so far as the workmen are concerned, will lie in the state of public opinion. Hence, it will serve in reality not as a method of compulsion, but as one of conciliation."

Frank T. Carlton, Professor of Economics and Sociology at Albion College, Michigan, since 1915, is quoted in the *Proceedings of the American Academy of Political and Social Sciences* as saying: "In the opinion of the writer the defects of compulsory arbitration outweigh its advantages. It is by no means certain that compulsory arbitration will achieve industrial peace. It has not in New Zealand or in New South Wales. Because of the political weakness in the labor organizations in the United States, the drafting and enforcement of compulsory arbitration laws will doubtless, as a rule, be under the control of persons not recognized as friends of organized labor."

John Bates Clark, Professor of Political Economy at Columbia University since 1895, and a member of the Mohonk Conference on Arbitration, has written in his book, *Essentials of Economic Theory*: "Arbitration by a court which is com-

pelled to act, and can enforce its decision, may deviate in a particular case from the rate of pay which strikes would yield; but if the deviation is frequent and great, it will induce a rebellion against the system of compulsory arbitration. The rate under this system cannot differ greatly from the result secured with no arbitration at all."

Edwin R. A. Seligman, Professor of Political Economy at Columbia University, writes in his book, *Principles of Economics*: "In the absence of an effective machinery within the trade, government often steps in. When it simply tenders its good offices through a system of voluntary arbitration, as in many of the American states, its success is not conspicuous. When it endeavors to force the contestants to come to terms, as in the Australian systems of compulsory arbitration, the danger is that an authoritative arbitrament may rob the one or the other party of the freedom to develop a cherished ideal that may be necessary to its own successful growth."

A university student, in the course of a few weeks or a few months, can not grasp more than the barest fundamentals of the problem. It is for this reason that we have adopted the attitude of taking the ideas of the leading authorities on this subject, and we will expect you to balance in the power of your judgment the weight of the opinions of economists that compulsory arbitration is not applicable to conditions in the railroad industry, as against the pet theories evolved by the Affirmative. If in your estimation the economists, the employers, the employes, are in the right, if their attitude is better than that of the Affirmative, we leave that entirely to you.

FIRST NEGATIVE REBUTTAL

J. H. Anglin, Stanford

The Affirmative as a whole have advocated that a federal board should be instituted to safeguard the rights of 110,000,000 of American people. That the government should institute a federal board as it will be highly beneficial to the parties concerned, and especially to the public. As the labor leaders and the public have voiced their disapproval of the measure, and leading economists and scholars are also opposed to it, we can

hardly agree with the Affirmative that it would be beneficial to enforce such a system of compulsory arbitration. The Affirmative have said that it is necessary to have compulsory arbitration in order to safeguard the public interest. In refutation I submit the record of the brotherhoods during the past three years.

The various brotherhoods have always shown reason in their demands. There have been but three national tie-ups threatened; two materialized, and both were settled before any danger appeared.

I call your attention to the threatened strike of last year. On October 1st the brotherhoods said that they would go on strike. They were prevailed upon that it was impossible to reduce the cost of living at that time until January 1st. They waited until March 1st. Did they then go out? They did not go out because they were prevailed upon that conditions did not warrant it. That shows that compulsory arbitration is not necessary.

The Affirmative this evening draws an analogy between compulsory arbitration tribunals and civil courts. Are the proceedings of the two similar? The civil courts deal with individuals against the state. If an award is granted against an individual or against a corporation, it can be enforced. But this tribunal would give decisions affecting the very character of two million workingmen and their families. The proceedings are different. The arbitration tribunal would deal with the very life and assets of the workmen. The civil courts deal with property rights, while this court would make awards affecting wages, hours of labor, character and kind of compensation. The time has passed when American labor can be regarded as mere property; it is high time that the people of this country realized that labor is not property.

The first speaker said a system of compulsory arbitration is practicable. Could any system, irrespective of what kind it may be, be insured a reasonable success when the two million workmen engaged are opposed to it almost to a man. In order to have a new plan meet with a fair degree of success it must have the cooperation of the men engaged in the industry. By use of force the men would continue to work, but is that the just and right way to go about to secure industrial harmony and peace?

FIRST AFFIRMATIVE REBUTTAL

Fred D. Fagg, Jr., Redlands

The Gentleman who has just left the floor stated that there had been no serious strikes or lockouts on the railroads during the last three years. Why? Because the United States government has taken it into its own hands to see that we shall have no strikes and lockouts, by use of the Adamson Law. Congress had to go out of its jurisdiction to do that. Now, shall we make that act legal, or shall the government continue to use non-legal methods as at present.

Gentlemen of the Negative, if you won't answer any of the questions put to you, answer this one: What are you going to do with the Adamson Law? What are you going to do with force? What is your plan? If you won't admit that our plan is a practicable one, how do you hope to settle the problem? By quoting authority? That will not work? By what measures do you hope to win out? How about the Adamson Law? Did our people stand behind Congress and the President in that case? You say, "We will fight a compulsory arbitration court as long as we have any breath!" Does that sound conservative? My colleague did not say that the men of the brotherhoods had thrown cobblestones or wrecked machinery. He said that the assumption was that labor could get a higher brand of justice by throwing bricks and wrecking machinery than they could through the courts of the United States. He didn't say it had been done. You stand for the right to strike, yet you don't tell us for a moment what a coal strike would mean. Tell us, if you can, what a railroad strike would mean? They say that Canada had only 44 labor disputes in 1914; there were 222 disputes in Canada during that time, and, in a pamphlet put out by Mr. Squires, he states that 40% of the disputes in Canada were illegal.

They say that labor has a right to strike. Let me quote to you the words of Ex-president William Howard Taft on the subject. He says: "It is idle for the working man to talk of the 'right to strike' as a sacred right secured by the Constitution. The Constitution secures a man in his right to work or not to work, but the asserted right to strike is more than this."

Here is what Mr. A. Mitchell Palmer says of government intervention: "Confronted with such a choice, the government's duty was perfectly clear; it refused to surrender to the dictation of a group and it proposed to assert its power to protect itself and the people whom it is designed to serve. The government is no respector of persons in the enforcement of the law. Those who conceive that the resolution of a convention or the orders of the officers of any organization in the country, whether labor organization or any other, are superior in authority to the law of the land, will find themselves mistaken."

Chief Justice White said in regard to the Adamson Law: "To say that the national legislative body had no authority to enforce a settlement when the railroads and men refuse to adjust their differences, would be to hold that private rights had destroyed public rights."

That settles the question regarding the Adamson Law. The Cummins Bill was turned down for purely political reasons.

We are not here this evening to defend capital, or to defend labor, but to insist that the rights of the people are paramount to the rights of any single group or faction. Ladies and Gentlemen, within this nation there is room for but one sovereignty. It is time we cast away our sentimental ideals and fallacies and placed authority where authority is due by condemning the strike and lockout as federal misdemeanors.

SECOND NEGATIVE REBUTTAL

Lauder Hodges, Stanford

Let me re-state the question for the benefit of the opposition. Resolved: That all railway labor disputes should be submitted to a federal board of arbitration with compulsory power. I ask you to find any words in that question which could possibly suggest that we are obliged to present or compare a plan which will work in place of compulsory labor? Does not the wording of this question indicate that the Negative is to present arguments against compulsory arbitration of

railway labor disputes whereas the Affirmative is to present arguments in favor of it? We fail to find any suggestion in the question that it is incumbent upon the Negative to present a counter plan. In our experience in debating we have never even found that it was good debating policy to present a plan on the Negative. In other words, the Negative is not under the slightest obligation to present a plan. The Affirmative does that.

There is another question which has continually come up this evening—the question of the Adamson Act. Let us review the circumstances surrounding the Adamson Act. The railway brotherhoods insisted upon an eight-hour day and increased wages. This finally took the form of a general declaration throughout the entire country that unless their demands were acceded they would strike. But the threatened tie-up did not materialize because Congress passed a bill providing eight hours for a day's wage in the railroad industry. A bill of this nature is not in our estimation a precedent for compulsory arbitration of railway labor disputes. That bill is exactly along the line which we have been arguing this evening. It is remedying fundamental defects, and is not an argument for compulsory arbitration. We cannot grant the gentlemen of the opposition that their ideas on this are right. The Adamson Act in our estimation is a bill remedying fundamental defects.

We have just had a quotation from Ex-president William Howard Taft. I have one here from Ex-president Taft which is dated at a later date and reads: "Labor's distrust of courts is not only deep-seated, but well-founded." In other words, labor is justified in its opposition to compulsory arbitration, as the first speaker of the Negative made plain in the quotations which he read.

Now I want to reassure the gentlemen of the Affirmative that throughout this entire debate we have not denied that the public theoretically has the right to insist that all railway labor disputes be arbitrated, but we do insist that the application of that right in the United States would be highly unwise. We have based our belief that it would be unwise to apply compulsory arbitration of labor disputes on the grounds of authority. We have not undertaken to present our individual ideas and theories on this momentous question. We have undertaken to

present the well-founded expressions of experienced men who have dealt with the problem a long time. We have attempted to present an over-whelming array of testimony. Compulsory arbitration of railway labor disputes can not be successful in this country because it will prevent strikes.

SECOND AFFIRMATIVE REBUTTAL

Raymond E. Untereiner, Redlands

We came here tonight not to tell you what somebody else thinks, but to get to some reason why you in your own judgment think that compulsory arbitration of railway labor disputes is unsatisfactory. We believe you have intelligence enough to form your own opinions.

The Negative refuse to offer any plan. They leave us in the position of either accepting compulsory arbitration or keeping the same system we have now; whenever the railway brotherhoods and capital can't get what they want, they fall back on the menace of railway strikes and lockouts. The transportation system of this country is such that if it were tied up for one week, people in our large cities would be starving. You say we haven't had strikes like the threatened one prevented by the Adamson Law. But why should we have a system of government so legislated that we do not have any means of providing for a contingency like that without calling a special session wherewith we can work at any time, so that we can meet this extra trouble? Under the present system there is always a chance of a strike. So long as there is this chance, there will be the chance that some time the government of the United States, or the people, will be threatened with absolute chaos. So long as there is a possibility that anything like that can take place we should provide some means to take care of it. The government should be far-sighted enough to see that under present conditions it should be provided with some means to take care of such things.

We have not yet heard the main issue because our opponents have a misconception of what compulsory arbitration is. They believe that compulsory arbitration will take an individual

railway worker and put him on a job and make him stay. We don't have to have a soldier behind every man on the railroad. Compulsory arbitration is against the right to strike collectively. If one, or one thousand men want to stop they can stop any time. When you take away the right to strike collectively, you take away the reason to strike. Our plan takes away the collective strike, but any individual can stop whenever he wants to. They believe compulsory arbitration can not be enforced because it forces individuals to work and refuses to allow them to combine and threaten the welfare of the American people to gain something for themselves. If it isn't going to force anyone to work, why should it be difficult to enforce. The collective strike can be done away with, and you are not forcing any individual to work by doing away with it. You give the railroad brotherhoods a chance to get justice through legal means. There is no system which would guarantee against an individual leaving his job, and we would not advocate such a plan. There is no involuntary servitude in our plan. The whole case that the Negative has presented has been based on a misconception. We have no such plan in mind. We believe that in thinking over this view of the matter you will not believe that our plan is so impracticable or will cause so much trouble.

THIRD NEGATIVE REBUTTAL

T. W. Irwin, Stanford

Our worthy opponents still insist that we present some plan for industrial peace. We must insist, Honorable Judges, that our stand is fully justified. We are debating one question, and that is the question of compulsory arbitration in railway labor disputes. We are not debating whether it is advisable for us to adopt one plan or another. It is only whether compulsory arbitration is advisable. Do its merits justify its adoption in United States railway labor disputes?

The speaker asks, Why is labor opposed to compulsory arbitration? It is opposed by the laborer, by the public, by the economist, and by the employer because it has failed wherever

it has been tried. The Affirmative have failed to answer our argument that the plan has failed wherever it has been tried. That fact in itself is grave—the fact that it has failed. One of the peculiar factors regarding questions of this kind is precedent, and precedent in this case does not justify the adoption of the plan.

Regarding the number of strikes in Canada during 1914, the Affirmative say that there were 222 strikes, whereas we say there were 44. I should like to know the Gentleman's source of information, and where the strikes occurred. He says there were 222 strikes; he doesn't say when.

Honorable Judges, we can not expect to bring about industrial peace and harmony by any short-cut methods. Why should we adopt any plan which would protect the public at the expense of the wage earners? There is no reason why we should adopt any plan for industrial harmony until we have first corrected the causes of industrial unrest. The employers and the public are almost unanimously opposed to compulsory arbitration. Yet our friends contend that we should have it. They contend that it gets at the cause, but they do not say how. Why, when our best economists, as well as railroad executives and labor leaders are opposed to the plan, and why, when it has failed wherever it has been tried, should it be adopted here?

Just one more point. With regard to the worker's right to strike—what gives him this right? It is the realization of the irresponsibity of the public toward the workers and their conditions that gives them the right to tie up traffic and force concessions from their employers.

Let us sum up the arguments. They contend that we should adopt a plan modeled after the Cummins Bill, with slight modifications. We, however, contend that the proposed plan would be unwise because the majority of the people whom it would affect are opposed to it and because it is absolutely against the principles of a democratic institution. We have shown you the results of its adoption in the countries where it has been tried; how it has failed wherever it has been adopted. We have shown you the attitude toward it in this country. We see no reason, therefore, why it should be adopted to settle railway labor disputes in this country.

THIRD AFFIRMATIVE REBUTTAL

Vernon Green, Redlands

Relative to the information that the gentleman requests regarding the number of strikes in Canada, I wish to tell him that I quoted from page 54 of the *Operations of Industrial Disputes in Canada,* by Ben Squires.

Before continuing the argument I want to point out clearly an inconsistency of the Negative. They say compulsory arbitration will result in industrial dissatisfaction. They say it will not work. If it will not work, how can it result in industrial dissatisfaction?

They say that compulsory arbitration has failed wherever it has been tried, and they introduce Australasia and New Zealand to prove their case. When they introduce New Zealand, they are introducing the state with the highest criminal record in the world, the state where a radical labor element dominates the political, legislative, and judicial departments of the Australian government. No wonder it won't work there. According to Raymond Robbins, the noted evangelist, their motto is "To hell with the church and give them anything they want." We do not base our hope for success on the experiences of Australia or New Zealand. We are not here to say what can be accomplished by Australia or New Zealand, but we are here to prove that the United States, backed by 110,000,000 of American citizens can demand decent action from any single industrial faction in the country.

The Negative have advanced but two arguments. (1) that compulsory arbitration won't work because you can not enforce it, (2) that you can't get justice and a square deal in American courts. The first is an insult to the stability of the American government, and the second a slanderous reflection upon American courts and American jurisprudence.

In answer to the Negative argument that compulsory arbitration will not work, allow me to quote the statement of W. S. Carter [lacking].

Samuel Gompers says that he is opposed to the introduction of compulsory arbitration courts inasmuch as they would do

away with the right to strike in a democratic government. These men are opposed to compulsory arbitration courts in this country on the ground that its decisions *will be enforced,* and that labor and capital *will* accept a compulsory arbitration decision. The question is, Can we get justice and a square deal in American courts? The Negative contend that with the introduction of compulsory arbitration comes the introduction of corruption in American judicial system. Corruption is not peculiar to any part of the government. A government is never any better than its people; but our government is as nearly perfect as any yet conceived. The only things which stand against it are American malcontents operating against it. They brand our American government as an inefficient institution, and our system of jurisprudence as a farce and a cheat to the American people. Gentlemen of the decision, if we have no faith in American law and in American courts, then we have no faith in the nation's ability to back up its legal and just decisions, we can not have compulsory arbitration or anything else. But if we have faith in American law and American government, in American courts and American judges, then we have faith in this nation's ability to back up its legal and just decisions; then we can establish compulsory arbitration or anything else guaranteeing the same protection to the American people.

Tonight there is a great struggle on between the brotherhoods and railroads; labor continues to make demands and capital continues to refuse, and their motto is, "Everybody for himself and the devil take the hindmost". It is like war in the political world, blood shed and corruption in the social world. We are about to cancel war between nation and nation, and yet the Negative condemns everyworthwhile institution and conceives of bloody warfare between capital and American labor.

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CHAPTER V

COMPULSORY ARBITRATION OF LABOR DISPUTES

COE COLLEGE

RESOLVED: *That Congress should enact legislation providing for compulsory arbitration of all labor disputes in public service corporations; constitutionality conceded.*

These are the speeches given by the teams representing Coe College in triangular debate with Ripon College, Ripon, Wisconsin, and Northwestern College, Naperville, Illinois. The Affirmative team debated against Ripon College at Cedar Rapids, Iowa, on March 27, 1920. The decision was two to one in favor of Ripon. The Negative speeches were delivered on the same evening against Northwestern College, Naperville, Illinois, the decision being in favor of Northwestern. This report was prepared from manuscript copies of the speeches furnished by the debaters thru Mr. Owen F. Rall, President of the Coe Forensic League.

BRIEF

COMPULSORY ARBITRATION OF LABOR DISPUTES

AFFIRMATIVE

INTRODUCTION:

A. The settlement of industrial disputes is one of the most important questions before the American public today.

B. It is proposed that industrial disputes in public service corporations should be settled by compulsory arbitration.

C. An industrial dispute arises when any difference passes beyond the possibility of settlement thru the voluntary efforts of the disputants themselves.

D. Public service corporations are those corporations vested with public interest upon whose continuous operation the public welfare intimately depends.

E. Existing methods of peaceful settlement of disputes are mediation, conciliation, investigation and arbitration.

1. Mediation and conciliation mean settlement by the disputants themselves.
   a. This is the ideal method for the settlement of differences.
   b. Where it fails investigation or arbitration must be called upon.
2. Investigation and arbitration involve a third party who sits with the disputants.
   a. Investigation, if compulsory, prohibits strikes and lockouts until the court has reached its decision, but makes no provision for enforcing the award.
   b. Compulsory arbitration makes the awards legally binding, thus absolutely prohibiting strikes and lockouts.

I. Compulsory arbitration is absolutely necessary.
   A. Justice to labor demands its adoption.
      1. Thruout its long struggle to obtain industrial justice labor has been compelled to depend upon a single weapon—the strike.
         a. Justice cannot be obtained from such a primitive method.
            (1) The cost and danger resulting from strikes is almost as great to the working man as to the employer.
            (2) Laboring men win their end by strike only when they are stronger than their opponents and not necessarily when their cause is legitimate.
      2. Arbitration gives labor a better weapon—the right to bring its grievances to an impartial court.
         a. Decisions are based, not on brute force but on the greatest possible fairness to all parties concerned.
         b. Labor itself has right of representation in this court.
   B. Compulsory arbitration is necessary for the public welfare.
      1. There is public danger in the growing powers of labor.
         a. The more vital the industry to the public the more arrogant are the demands of the parties to a dispute in that industry.
            (1) They know that, barring interference, they can force the public to see that their wants are granted.
         b. The people are the greatest sufferers in any dispute.
      2. The public has a right to demand continuity of service.
         a. National security depends on continuous operation of the public service industries.

II. Compulsory arbitration is correct in principle.
  A. It is the logical next step.
    1. There was a time when men settled all their differences by force.
    2. We have now come to the time when society in self defense demands that parties to an industrial dispute submit their differences to an impartial tribunal.
    3. Congress is even now debating the limitation of our national sovereignty in order that we may participate in an agreement whereby disputes among nations may be settled without an appeal to force.
    4. It is merely an extension of the principle that the government has a right to regulate corporations that vitally affect public interest.
  B. It removes the causes for the dispute.
    1. It prevents rather than cures.
      a. By bringing employer and employee together, arbitration has gone a long way toward settlement.
      b. It recognizes that there is no substitute for good will between the two parties.
    2. It encourages peaceful means of settlement.
      a. In this way it actually limits the number of cases where it is needed.
    3. It guarantees justice to labor.
      a. It gives labor the right to present its cause before an impartial tribunal and at the same time provides that labor shall be represented on that tribunal.
      b. It secures a fundamental American principle—liberty protected by law.
  C. The so-called right to strike in public service corporations does not exist.
    1. By their very nature public utilities are so vital to the public interest that interruption of service cannot be permitted.
    2. The interests of the public are paramount to those of any class.

III. Compulsory arbitration is practicable.
  A. The success or failure of compulsory arbitration in any other country has nothing to do with the system advocated here.
    1. Conditions are entirely different.
  B. A workable plan for putting it into effect can be devised.
    1. A plan has already been adopted by Congress in the Cummins Act.
    2. The only change suggested is that the awards of the court be made legally binding and that people with grievances be compelled to submit them to the arbitration boards.
  C. The awards of the Court can be enforced.
    1. Compulsory arbitration will take from labor the right to strike in public service industries.
    2. Only in the last extremity will force be necessary.

IV. Compulsory arbitration furnishes a real basis for industrial peace.
  A. It provides both prevention and cure for all industrial disputes.
  B. It will provide labor a better weapon for securing justice than it now has, guarantee uninterrupted production to capital and secure continuity of service to the public.

Negative

I. Compulsory arbitration is wrong in principle.
  A. It does not remove the causes of the disputes.
    1. It ignores poverty, unemployment, sweating of labor, etc., which are fundamental to every such dispute.
      a. If these causes are removed industrial peace is sure to follow.
    2. It is only a compromise.
    3. It would widen the breach between capital and labor.

a. It brings the parties into court as accuser and accused.

B. Many industrial disputes involve principles that cannot be arbitrated.

C. Such a system would lead to centralization and bureaucracy.

1. State laws would become invalid on the passage of a Federal law.
2. A tremendous amount of power would be concentrated in the hands of a few.
3. This would result in the subversion of democracy dangerous to the civil and social liberty of all citizens.

D. No attempt should be made to abrogate the only weapon of the working man—the right to strike.

II. Compulsory arbitration is impracticable.

A. It is too vast an undertaking.

1. Instead of a homogeneous group of individuals with the same ideals, we have a conglomerate mass of more than forty nationalities to deal with.
2. Numbers are too great.
3. Labor is too highly organized.

B. Experience does not warrant its adoption.

1. It has failed in New Zealand.
2. Strikes have actually increased in Australia under compulsory arbitration laws.
3. Compulsory investigation has not been a success in Canada.

C. It cannot be enforced in the United States.

1. Organized labor is firmly opposed to it.
2. Awards can only be enforced by fines, imprisonment or the use of military force.
   a. Fines cannot be collected from people who have no property.
   b. Large numbers of men cannot be jailed.
   c. The use of military force would kill the spirit which renders satisfactory or efficient service.

III. Compulsory arbitration furnishes no basis for industrial peace.
  A. It is impossible for courts of arbitration to render just decisions.
    1. Wages cannot be regulated by law.
    2. There is no generally accepted standard for the determination of a fair wage scale.
    3. The awards of the court would be based on expediency and compromise.
  B. It destroys peaceful voluntary means of settlement.
    1. Arbitration is compulsory for *all* disputes.
    2. Collective bargaining would be destroyed.
  C. Compulsory arbitration lacks the support of public opinion.
    1. The employer does not favor it.
      a. It is unfair to him.
        (1) The awards could be enforced on him because he has seizable property while the laborer has none.
    2. Labor has always opposed it.
      a. It attempts to destroy the right to strike.
    3. The public is opposed.

IV. A better plan can be devised by settling industrial disputes.
  A. Such a plan must include these fundamental features.
    1. Causes for strikes must be removed.
    2. The right of collective bargaining must be recognized.
    3. The element of compulsion must be avoided.
    4. Voluntary peaceful methods of settlement should be encouraged.
  B. These principles have all been incorporated in the labor section of the Cummins Law, enacted February 28, 1920.
  C. This law should be extended to cover all public utilities.

DEFINITION OF TERMS

MEDIATION

The first method to be used in an attempt to settle an industrial dispute is mediation. The method calls for a "mediator", "go between", or agent to act between the parties at variance. The mediator attempts to induce the disputants to adjust their own differences amicably, or he takes an active part in the controversy and submits proposals from one to the other. The mediator seeks to secure frank statements regarding the maximum concessions each is willing to make, and acting confidentially often effects a settlement. It is the most successful of all methods because it is usually used before the dispute reaches its climax, and before the emotion of the contestants has been aroused.

CONCILIATION

Conciliation is practically the same as mediation. A Board of Conciliation or Mediation is a body whose function it is to mediate between employer and employee, but which has no authority to enforce acquiesence in its decision.

INVESTIGATION

Investigation is a method for settling industrial disputes after mediation fails. In formal investigation a board of impartial investigators ascertain the cause for the dispute, and fix the responsibility. The report of the investigation is usually published. This report is sometimes given to the arbitrators if arbitration becomes necessary. The value of the method lies in the strength of public opinion to enforce the decision. If a strike is made unlawful for a definite period of time, or until the investigation is completed, as is done in Canada, it is called Compulsory Investigation.

ARBITRATION

The hearing of facts or arguments concerning a dispute and the decision of the points at issue by a Board of Arbitra-

tion chosen by the parties or established by governmental authority is called Arbitration. Arbitration implies decision and settlement by an outside authority. It is the application of the civil court system to industrial disputes. The disputants may previously agree to abide by the decision of the arbitrators. In all cases the board makes an "award". If the law requires that the parties *must* arbitrate and that they *must* abide by the decision of the board of arbitrators it is called Compulsory Arbitration.

B. D. Silliman,
Coach.

COMPULSORY ARBITRATION OF LABOR DISPUTES

COE COLLEGE

AFFIRMATIVE SPEECHES IN DEBATE AGAINST RIPON COLLEGE

FIRST AFFIRMATIVE

Richard O. Roberts, Coe

Ladies and Gentlemen: No question before the American public today is of more importance than that which involves the settlement of industrial disputes. Organized capital and organized labor have grown in power and have developed conflicting interests until today they stand as two colossal giants, threatening American institutions and American safety with their frequent slashes. The problem, then, is to settle these industrial controversies with justice to both parties, and at the same time to give to the American public that protection which it has every right to demand. Accordingly we propose that Congress should enact legislation providing for the compulsory arbitration of all labor disputes in public service corporations, constitutionality granted.

Now, Gentlemen, it is our right and duty to explain the terms involved in the proposition and to give the question the interpretation it shall have for this discussion. Two questions we wish to answer at the outset: (1) When does a labor dispute arise? For purposes of this discussion a dispute arises when any difference passes beyond the possibility of settlement by voluntary methods of the disputants themselves. When contending parties can be induced to adjust their difference without violence, their troubles obviously are not disputes covered by the question; but when open conflict becomes inevitable we have a dispute, which according to our proposition, must be settled by arbitration. (2). What are public service corpor-

ations? Here is a term which is not subject to a fixed definition or definite limitation. According to the best authorities public service corporations are "those corporations vested with public interest, upon whose continuous operation the public welfare intimately depends." Our railroads, coal mines, and telephone and telegraph systems are certainly public service corporations. Other important industries may be added to the list when it is shown that their continuous operation is necessary to the public welfare.

Next, as a basis of understanding of the problem, let us distinguish between existing methods of peaceful settlement. Such methods consist chiefly of mediation, conciliation, investigation and arbitration. Mediation and conciliation mean settlement by the disputants themselves. When employer and employee can be induced to discuss their problems frankly together, many a controversy can be dissolved or compromised. We agree with the best authorities and we presume with our opponents that, insofar as it is applicable, this is the ideal method for the settlement of differences. But in cases where it fails to effect a settlement a more positive check must be provided; investigation or arbitration must be called upon. These methods involve a third party, who sits, with representatives of the disputants, on a court which investigates the situation, places the blame for the trouble and offers a plan of settlement. Investigation if it be compulsory, prohibits strikes and lockouts until the court has met and reached its decision, but it offers no machinery for enforcing the award, leaving the enforcement entirely to the public sentiment. Compulsory arbitration goes a single step further, making its awards legally binding, and thus absolutely prohibiting strikes and lockouts.

In supporting this proposition the Affirmative will base its case upon three fundamental arguments. (1) Compulsory arbitration is absolutely necessary. (2) Compulsory arbitration is correct in principle. (3) Compulsory arbitration is practicable and will work in actual operation. Compulsory arbitration is absolutely necessary (1) because justice of labor demands its adoption. Labor is not a detached class to be set off from the rest of our people, either for special favors or for unjust discrimination. The first paragraph of the Clayton Act expressly states that "Labor is not a commodity." It is an in-

tegral part of the American public, and as such must receive protection and fair play. Throughout its long struggle to obtain industrial justice labor has been compelled to depend upon a single weapon, based on brute force--namely the strike. It is needless for us to point out that labor receives no real justice from such a barbarous, primitive, costly, and utterly useless method as this. Nearly half of all strikes in our country last year were utter failures, yet in nearly every case the cost and danger resulting from the action were as great to the workingmen as to the employers. Laboring men obtain their ends by the strike only when they are stronger than their opponents and not necessarily when their cause is legitimate. But suppose labor wins the strike; what kind of justice does the action give? The miners are conceded to have won the recent coal strike; yet they lost $60,000,000.00 in wages while winning an annual wage increase of $70,000,00.00. Almost a year of work will be necessary to make up those six weeks of lost time. Through experience the workingman finds that the strike means suffering and hardship, and that, in the disruption of industry, *he* is one of the greatest sufferers.

Justice to labor demands the adoption of Compulsory Arbitration because in return for the right to strike arbitration gives to labor a greater weapon—the right to bring its grievances to an impartial court, whose decisions are based, not on brute force, but on the greatest possible fairness to all parties concerned? In addition labor receives the right of representation on the court whose decisions it must obey. As surely as justice to the parties of a duel demands a court settlement, justice to labor demands arbitration.

Court settlement is demanded in justice to the parties of a dispute themselves, but Compulsory Arbitration is necessary for a second and greater reason. If men would duel in a secluded a field we might afford to say, "It is all wrong, but they insisted upon it, let them fight it out!" But if they insist on duelling in a crowded street where their bullets strike passersby, that is a different question. The streets of American public service industries are too crowded to allow duelling. Therefore, we insist Compulsory Arbitration is absolutely necessary because the public welfare demands that strikes and lockouts be prohibited in Public Service Corporations. Such prohibition is

demanded (1) because there is a public danger in labor's growing powers, evidenced by the increasing number of threats against the service of such industries. Many of these threats burst into strikes of appalling magnitude, and to avert any of them the government must always interfere, either by hasty legislation or by compromise. The more vital an industry to public welfare, the more arrogant become the parties to a dispute in that industry, for they know that, barring interference, they can virtually force the public to its knees, and compel our people to see that their demands are granted. Where the burden of such a system rests is perfectly evident. Whether employer or employee, or both, be to blame for the disruption of industry the American people are always the greatest sufferers. Great as was the loss in wages from the coal strike last fall, the loss to the public was incomparably more. 40,000,000 tons of production were withheld when the country was in urgent need of coal; as a consequence innocent homes suffered from the cold and business throughout the country sustained losses that are impossible of estimation. The conclusion is inevitable; a labor autocracy must *not* be allowed to dominate our nation. Labor's growing powers in Public Service Corporations are a public danger and must be curbed by law.

Finally the public may prohibit strikes and lockouts because it has a right to demand continuity of service. On one point our people, including both capital and labor, are solidly agreed, national security depends on continuous operation of the public service industries. But when classes lose sight of this goal and become lost in class warfare, measures must be taken to place the public mind where it should be, in a position of domination over such warfare. Under present conditions a dispute may arise and capital will say, "If labor would listen to reason there would be no need of arbitration." On the other hand, labor says, "If the employers would only be reasonable we could adjust our differences without help." Speaking of this the St. Paul Pioneer says, "That is the old familiar see-saw they love to keep going while the rest of us freeze or go hungry, and there is no way to end it this side of eternity except with a club from without." Gentlemen, we maintain the industrial court is just such a club. It gives justice to both

parties in dispute and it gives the public protection from violence and disruption of service in vital industries.

Gentlemen, because justice of labor demands its adoption, and because the public welfare demands that strikes and lockouts be prohibited in public service corporations, the Affirmative contend that compulsory arbitration is absolutely necessary.

SECOND AFFIRMATIVE

E. Harold Skinner, Coe

Mr. Chairman: Honorable Judges: Ladies and Gentlemen: In arguing for the adoption of a policy of compulsory arbitration, my colleague has shown that the measure is absolutely necessary. He has shown that justice to labor demands its adoption, and that public welfare demands that strikes and lockouts be prohibited in public service corporations. In continuing the argument for the Affirmative, it shall be my purpose to prove that compulsory arbitration is correct in principle.

In the first place, Honorable Judges, arbitration is naturally the next logical step. There was a time when men settled their differences by an appeal to force. Mén met and fought when convenient. Later, as civilization advanced, and the danger and injustice of this method became recognized, it became the custom to call in an impartial neighbor to hear the facts and to settle the dispute. But even this method proved ineffective and finally society demanded that the contending parties submit their differences before an impartial tribunal for final settlement.

In our industrial system, the development has been similar. We have the appeal to force exemplified in the barbarous method of the strike. In voluntary arbitration we have the application of the impartial neighbor to industrial disputes. And today we have come to the time when society in self defence must demand that the parties to an industrial dispute submit their differences to an impartial tribunal. Compulsory arbitration, therefore, is simply the application of the civil court system to industry. It substitutes the rule of reason for the rule

of force. It substitutes for an influence that brutalizes men, one that develops their sense of justice, fosters a law abiding spirit, and makes possible a feeling of mutual friendship between the employer and employee. Gentlemen, Congress is today contemplating a limitation of our national sovereignty in order that we may participate in an agreement whereby disputes among nations may be settled without an appeal to force. Labor and capital alone are left free to settle their differences by force, and it is for this reason that the public demands that the next logical step be taken.

Arbitration is the next logical step for still another reason. It extends an established principle, namely that the government has a right to *regulate* corporations that are vitally affected with a public interest. Senator Poindexter says, "When the people gave Congress power to regulate commerce, by necessary implication, they imposed upon it the duty to protect that commerce." Thus legislatures regulate railway rates, elevator charges, and even in certain cases the price of food. The Interstate Commerce Commission is an excellent example. This Commission was organized in 1897 with power to recommend and suggest fair rates, but with no power of enforcement. The railroads abused their power and in 1906 the powers of the Interstate Commerce Commission were extended and awards made enforceable. Here we have a commission failing without the power of compulsion, but since this power was granted the board has been an eminent success. Thus we see that any voluntary plan, or any plan short of compulsory arbitration must fail simply because it is voluntary.

Capital has formed its organizations. Labor has formed theirs. The power of each has increased, and today their wars have become more injurious and more bitter to the public. We have regulated capital, by various compulsory measures. Certainly then we can take the next logical step and extend this principle of regulation and require labor to perform its duty in guaranteeing service to the public.

Compulsory arbitration is correct in principle, second, because it removes the cause for the dispute. Arbitration is a *preventative measure* as well as a *cure*. Gentlemen, by merely bringing the employer and employee together, arbitration has gone a long way toward settlement. If labor and capital can be

induced to put their feet under the same table and to smoke the same brand of cigars, there is little chance for disagreement. Arbitration recognizes that there is no substitute for good will between employer and employee. It is the only system that makes possible the determination of the real facts of the case.

Compulsory arbitration narrows its own field by encouraging peaceful methods of settlement. Realizing that finally they will be forced to accept arbitration, if they fail to agree by voluntary means, the disputants will exert every effort to effect a settlement. Only a small per cent of the disputes, therefore, will ever reach the arbitration board, and arbitration encourages the peaceful settlement that we both agree is most desirable.

Moreover, the measure removes the cause for the dispute by guaranteeing justice to labor. It gives to labor the right to present its demands before an impartial tribunal, and at the same time provides that labor shall be represented on that court. It secures a fundamental American principle—Liberty protected by law. Our opponents can assert that the measure is unjust to labor if they will. Certainly it can be no more unjust than the strike. Let the Negative remember that when they attack the justice of arbitration, they are attacking the civil court system upon which our government and justice is founded. American labor, with many just grievances, has been forced, because of inadequate means to secure justice, to insist upon its right to strike. No one questions that disputes about property should be settled in the courts, but centuries have piled upon centuries without laws recognizing the right of labor to have a court to determine a fair and reasonable wage. Give to labor the right to present their claims before an impartial tribunal, guarantee to them the justice to which all men are entitled, and it will become unnecessary for labor to strike.

And now, Honorable Judges, we come to the third and most important reason why compulsory arbitration is correct in principle. The Affirmative contend that the so-called right to strike in public service corporations does not exist. Public utilities are by their very nature vested with public interests so vital that the public cannot permit an interruption of the service. A strike in a public service corporation is not only

dangerous to capital, it is a direct blow against the American public in an attempt to coerce the accomplishment of a result that the public, unorganized, has no power to control. We deny that four hundred thousand coal miners, constituting four-tenths of one per cent of the population, should have the right to force the other ninety-nine and six-tenths per cent of the people to freeze, in order that their demands may be granted.

The so-called right to strike has been precious to labor, but like every other right of an individual living in America, it is not an unlimited right.

The interests of the public are paramount to the interests of any class. Whenever a group of men interrupt the service of a public utility, upon whose continued operation the public welfare depends, they are guilty of an anti-social act. The public cannot and will not admit the right to strike in such cases.

We do not for one moment deny to any man the right to quit work at any time. We do deny that a group of men have the right to quit work in a body, when that "action" or "strike" impairs in any degree the welfare of the public or for the purpose of breaking a law.

Governor Coolidge asserts, "There is no right to strike against the public safety by anybody, anywhere, at any time." Ex-President Taft says in an editorial in the Philadelphia Ledger, "It is idle for working men to talk of the right to strike. When enormous combinations of working men deliberately enter upon a country wide plan to take the country by the throat and compel the employers in that particular field of industry to yield to their demands, they are engaged in an unlawful conspiracy." President Wilson in his last message to Congress struck a key note when he said, "The right to strike is inviolate, but there is a predominate right, and that is the right of the government to protect all of its people to assert its power against the challenge of any class."

Gentlemen, there is but one conclusion. The interests of the public are paramount. It is the duty of the government to protect its people. When a private right becomes a public wrong, that so-called private right ceases to exist. Arbitration is natural, logical, preventative and just. Upon these principles, it is founded, and thru these principles it will succeed.

Let me now review, briefly, the case thus far advanced by the Affirmative. Our first speaker has shown that Compulsory Arbitration is absolutely necessary because justice to labor demands its adoption and because public welfare demands that strikes and lockouts be prohibited in public service corporations. I have shown that Compulsory Arbitration is correct in principle for three main reasons. (1) Because it is the next logical step, (2) because it removes the cause for the dispute, and (3) because the right to strike in a public service corporation does not exist.

THIRD AFFIRMATIVE

Owen F. Rall, Coe

Mr. Chairman, Honorable Judges, and Ladies and Gentlemen: So far in the debate this evening, the Affirmative contentions have been: first, that compulsory arbitration of labor disputes on public service corporations is absolutely necessary because justice to labor demands its adoption and because public welfare demands continuity of service in those industries by the prohibition of strikes and lockouts; second, my colleague pointed out that in public service industries compulsory arbitration of labor disputes is correct in principle. He showed that it is the next logical step, that it removes the cause for the dispute, and that the exercise of the so-called right to strike on public service corporations has become a grievous public wrong.

Now we come to the natural culmination of our argument: compulsory arbitration in public service corporations is practicable, first, because a workable plan can be devised, second, because the awards can be enforced, and last, because such a system furnishes a real basis for industrial peace.

The practicability of the system we are advocating will not be based upon foreign experience. We emphatically deny that the success or failure of compulsory arbitration in all the industries of New Zealand, Australia or any other South Sea island has anything to do with the system which we are advocating for our public service industries. Methods of applica-

tion, conditions, and other factors in Canada, Britain, France and Germany have been varied, so that foreign experience offers no criterion for us this evening. There is, Honorable Judges, no country which can serve as a laboratory for the United States of America.

The Gentlemen of the Negative have very frankly accused us of dodging the issue in the debate this evening by failing to submit any plan for carrying into execution the just principles of compulsory arbitration. We will propose a plan, Honorable Judges, for one has already been devised. We suggest the adoption of the plan proposed by Senator Albert P. Cummins recently passed by both houses of Congress, known as the Cummins Act. The only change which we would make in the bill is the enforcement of awards just as of any other law, making the decisions of the boards binding at law and compelling those with grievances to lay their case before the boards provided in the law.

The system which we propose is practicable, then, because we have the means of setting up arbitration courts. It is practicable, secondly, because the awards of this court can be enforced. The Negative has already admitted that the awards can be enforced. Their speaker said that compulsory arbitration takes from labor the right to strike in the vital public service industries. It does. The Negative admits, then, that the awards can be enforced because taking the right to strike can be done only by successful enforcement. Should the Negative deny, now, that the awards can be enforced they place themselves in the ridiculous position of admitting and then denying the same fact.

But is it true, Honorable Judges, that compulsory arbitration must depend wholly on force for its success? Emphatically no! Only in the last extremity will force be necessary. In that same last extremity all law depends upon force, the force, however, not of an uncontrolled strike weapon but of organized society, government itself. There is nothing new in the doctrine that law is based upon organized force. It involves justified force. We should speak of forced taxes, compulsory schools, and compulsory laws. Do not condemn arbitration because it substitutes a reasonable system for an unreasonable system. The Negative, in arguing that the system cannot be

enforced is basing its case on a rash assumption, the asumption that labor will not abide by just decisions except at the point of the bayonet. The opposition is insulting the intelligence of American labor. Arbitration is just and it will rarely be necessary to enforce an award by force or penalty.

There are other ways of enforcing the awards than by force. The Negative speak in loud tones of imprisonment and forcing men to work at the point of a bayonet but the opposition failed to speak of contracts binding at law, attachment of union funds, contractual liability, licenses for skilled workmen and punishment of those inciting law violations. All of these, and others, too, would come before the force of which the Negative speaks. Not all of these would be used in every public service and when used the board may modify their form but all are available to be used when the arbitration court deems it beneficial.

And on what grounds do the Negative base the conflicting contention? On the statement of men who falsely believe that their job depends upon the right to strike—the labor leader. The only parties who oppose arbitration are the unions which are powerful enough to coerce and the capitalist who is strong enough to be tyrannical. Can there be any stronger argument in favor of our system than this very opposition? As we have intimated, all labor is not opposed to the measure. It is ridiculous for the opposition to argue that it will ever be necessary to imprison thousands of men. Laboring men are not anarchists. The Gentlemen can go back five years or ten years and find an imposing host of authorities who opposed all arbitration. Today, the sentiment has changed. President L. E. Shepard, who succeeded Mr. Garretson as head of the Order of Railway Conductors said recently: "I have been studying labor problems for twenty years. The brotherhoods did oppose arbitration, but we now find that it is not as inimicable to the interests of labor as we at first supposed." And R. G. Stewart, editor of a leading Iowa labor paper, says: "Yes, we opposed arbitration but when you get right down to horse sense, that's just what labor ought to have." Considering this new attitude of labor, the problem of enforcement diminishes greatly. We do not wish to minimize it, Gentlemen, but we emphatically deny the privilege of the Negative to magnify it.

Thus, we see, Honorable Judges, that two main contentions are established: first, that a workable plan can be devised; second, that the awards can easily be enforced. And now, Honorable Judges, there is a third great reason why arbitration should be established in our public services, namely, such a plan furnishes a real basis for industrial peace.

We hold that there are two essentials necessary for industrial peace. The first is the prevention and the second is the cure. Compulsory arbitration includes both. Do the Gentlemen of the Negative propose reduction of the cost of living, elimination of unemployment, voluntary arbitration, conciliation, shop committees, industrial congresses, and beneficial legislation to remove the causes for disputes? Honorable Judges, we do not disagree with them. Compulsory arbitration presupposes all the use of methods which can eradicate the causes for dispute. Do not allow the Negative to insinuate that compulsory arbitration restricts any of these plans, for such is not the case. Honorable Judges, we will take such measures as these if the Gentlemen of the Negative think them instrumental in removing the causes for dispute and incorporate them in our system. But before going any further and allowing the Negative to make any more attacks on our system because it does not remove the causes for dispute, we ask the Negative to tell us what, in their estimation, these causes are.

Any plan to justly settle disputes must also have certain essentials. It must give justice to labor; it must give justice to capital and the paramount essential is that the public must be guaranteed continuity of service from public service corporations. The public welfare is inseparable from the railways, telephone, telegraph, coal mines, light, power and other public utilities.

Our system will give justice to labor. Labor will lose nothing, its weapon will only be changed. Instead of appealing to the strike, it will appeal to the arbitration board. Labor will not be denied the right to organize. We disagree with the statement that labor unions depend upon the strike. We feel that the strike is the weapon and not the purpose of the union. If such is not the case collective bargaining is fore-doomed to failure. We will take from labor a weapon which public disapproval is making impotent and give to labor a means of

obtaining justice which public sentiment will support to the limit.

To the capitalist our system guarantees uninterrupted production, a most prized feature of compulsory arbitration. For a number of years the government has regulated the employer and the rates he may charge in the public service corporations. The employer feels that the government may justly settle disputes which do vitally effect his business. Only the capitalist who is strong enough to tyrannize over his workers opposes compulsory arbitration in the public service disputes.

If compulsory arbitration gives justice to capital and justice to the labor it must yet fulfill a greater mission, it must bring justice to the public. This it does. The public demands some system which will insure continuity of service in the public utilities. There are but two methods which we can use. First, stop strikes and lockouts without giving any weapon in return or, second, stop strikes and lockouts in those public service industries and give capital and labor a more satisfactory and just weapon, compulsory arbitration. The first is slavery and impossible in America. The second is compulsory arbitration which is necessary, because the public welfare demands it, sound in principle because it is the next logical step and aids in removing the causes for industrial disputes, and is practicable in operation because a workable plan can be devised, because the awards can be enforced and because it affords the real basis of industrial peace in those industries from which the public welfare is inseparable.

FIRST AFFIRMATIVE REBUTTAL

Richard O. Roberts, Coe

The Affirmative and Negative are agreed that some vital reform is necessary in our industrial system. The main issues of this debate, then, seem to be as follows: (1) Is compulsory arbitration a remedy which is correct in principle? (2) Is it a practicable remedy and (3) Is it the best remedy? Considering the first of these, let me point out a few fallacies of the

Negative argument. (1) First they maintain that compulsory arbitration does not remove the causes for labor unrest, and hence does not strike at the root of the evil. Now let the case of the Affirmative be clearly understood. We do not propose the measure as an industrial panacea; assuredly the industrial millenium is afar off. But on the other hand, arbitration presupposes nothing in the way of an eternal conflict between capital and labor, except that with human nature unchanged certain differences are inevitable; and when they burst into open conflict, effective measures must be taken to check them. Furthermore, our plan is perfectly compatible with all the beneficial legislation proposed by the Negative to remove the cause of unrest. All such legislation, shop committees, mediation, investigation, and voluntary arbitration, are agreeable with our measure. Compulsory arbitration is merely the final step, the clenching power added to these other measures, which assures the public continuous service.

(2) Secondly the Gentlemen claim that there are inarbitrable principles, which cannot be adjusted by an arbitration board. Let them explain exactly what they mean by inarbitrable principles. If they mean incompromisable, they are confusing terms; for arbitration does not imply compromise unless the just decision lies between the two contentions. On questions involving the right and the wrong nobody can be more capable than an arbitration board to decide the question. But the Negative would have such questions settled by legislation. Again they misunderstood our position, for arbitration does not prohibit the settlement of such questions by legislation. We believe that the arbitration board is capable of making as fair a decision as could anyone else, but if there is any objection, let Congress reserve the right to legislate on certain questions which it is not willing to trust to the board. Congress places the very boards into existence and it may reserve for itself any right which it desires.

Next there is the question of how wages can be fixed by law. We do not pose as amateur economists to show how to adjust these questions of economics. But if it is true that wages, or any other matter of controversy in public service industries, cannot be adjusted by law, then how do the Negative explain the fact that seven nationally known economists, including R.

F. Ely, quoted by the Negative this evening, advocate compulsory arbitration for settlement of disputes in public service corporations. We agree with these economists that legislation does not mean contradicting economic laws; the courts should be guided by such laws rather than attempting to contradict them.

Finally the Negative object to the compulsory feature of the measure. Why this odium to the term compulsion? The plan compels disputes to be brought before the arbitration board only when the contending parties refuse to settle them in any other way, but would have industrial war. Then compulsory means only that the courts decision shall be binding at law. Thus if we speak of compulsory arbitration, we might as well speak of compulsory taxation, compulsory education, compulsory anything that is enforced by law. If the Gentlemen object to compulsion in this sense, then they would return to the scheme of our old articles of Confederation, which failed because they gave to Congress only powers to recommend while our Constitutional Government has succeeded because under it Congress has powers to command.

The principle of arbitration is everlastingly right. It is compatible with practically every scheme of the Negative for removing causes of industrial disputes; it handles uncompromisable principles in dispute, economists have pronounced it sound on economic questions, and finally its compulsory feature carries no odium.

SECOND AFFIRMATIVE REBUTTAL

E. Harold Skinner, Coe

The Gentlemen of the opposition state that compulsory arbitration is impracticable because experience does not warrant its adoption. They base their arguments on the experience of New Zealand, New South Wales. Gentlemen, we are not debating the plan as it is applied in Australasia, New Zealand or any other South Sea Islands, we are debating an American plan, framed to suit American conditions. Furthermore the plans are entirely different. In New Zealand compulsory arbi-

tration includes all labor disputes, while here it applies only to public service corporations. The very fact that the parcel post system has failed in New Zealand while it has succeeded in our own country, proves that the conditions in the two countries are entirely different.

The Gentlemen seem to forget that no less than twenty-six foreign countries have various forms of compulsory arbitration. We would like to ask the Gentlemen why it is that in not a single case has the system of compulsory arbitration ever been abandoned.

The third Gentleman of the Negative insists that we are unable to determine a fair and just wage. He asserts that there is no basis for wage determination and claims that satisfaction with the wage depends upon the mental status of the men. In other words, he believes that labor will not be satisfied even if the awards are just. The Negative believe that labor wants more than justice. Here, Gentlemen, he has struck one of the best arguments for compulsory arbitration, for our plan gives justice and no more. It does not permit the strong to dominate the weak.

Now suppose that it is true that there is no basis for wage determination. This is only another reason why we should have compulsory arbitration. If no such standard exists certainly one should be developed.

The Interstate Commerce Commission had no formula for rate determination when it entered the field of interstate commerce but it developed one and a compulsory arbitration board will do the same. The problem of wages can never be settled by arithmetical formula. If it could be, such a formula would have been developed long ago.

But, Honorable Judges, there is a basis for wage determination. In Section 307, paragraph D, of the Esch-Cummins Railway Bill we have a definite, specific and comprehensive standard for rate determination. It meets in every detail the objections which the Negative have presented. We see no reason why this same standard can not be applied to all disputes in public service corporations.

The Gentlemen of the opposition contend that compulsory arbitration is impracticable because it is too vast an undertaking. He has told you of the enormity of the country, of the

complexity of conditions that exist. He insists that we must have arbitration boards in every town, village and hamlet. Let the Gentlemen of the Negative discuss the practicality of the plan which my colleague presents and not the practicality of the New Zealand system or any other.

He has told you of the complicated system of arbitration boards, he seems to forget that we have the interstate commerce commission, the insurance commission and dozens of others which perform even more complicated tasks than those confronted by a compulsory arbitration board. This argument might apply in tonight's debate if we were advocating regulation for every industry. But by the very statement of the question compulsory arbitration is to be applied only to public service corporations.

Honorable Judges, the arguments of the Negative have been an endless chain of inconsistencies. They claim that the principle of our plan is wrong, yet, as a remedy, they mention collective bargaining which involves practically the same principles.

The Gentlemen argue that it is impossible for a board of men to determine what is fair and just, yet, at the same time, they propose a plan which they claim will do this very thing.

They claim that the plan can not be enforced and at the same time they argue that arbitration destroys service and defeats its own purpose by its application. They are putting themselves in the ridiculous position of arguing that it can not be enforced and in the next breath admitting that it can.

They claim that the measure can not be enforced, then to prove that their minds do not believe what their lips say they contend that it destroys the right of labor to quit work or strike. If it can not be enforced, how can it destroy the right to strike? Either it can be enforced or it can't be enforced. Which do the Gentlemen mean?

The Negative would have you believe that labor is radically opposed to compulsory arbitration. They insist that labor would evade the law and must work upon the supposition that a majority of the American public are not law-abiding citizens. This is an easy objection to raise and has probably been raised against every law that was ever enacted, but the government is strong and, moreover, it is respected. The plan which we propose will be backed by an organized public opinion. The

Gentlemen assert that labor opposes compulsory arbitration. Gentlemen, why do they oppose it? Simply because they know that it can be enforced. If labor for on emoment thought that public opinion was not back of compulsory arbitration, they would not be so radically opposed to it.

The Gentlemen seem to forget that our government enforced the plan of national conscription and is today enforcing a plan of national prohibition.

The opposition contend that arbitration destroys the union. In other words, they are claiming that the life of the union depends upon the strike.

We believe that the union leaders themselves would deny this statement. Their claim is based on the rank assumption that our plan destroys collective bargaining.

We have tried to make it clear that we propose to encourage peaceful methods of settlement through the unions by arbitration. We must ask again that the Negative meet us on the plan we present and not on the one that they have invented in the quiet of their study.

The Gentlemen seem to think that we would settle every difference of opinion by arbitration. This would be ridiculous. If the parties can settle their differences by peaceful methods, as my first colleague has explained, it never becomes a dispute, as the term is usually understood.

Thus rather than destroying the union, arbitration gives to the union another reason for useful activity.

THIRD AFFIRMATIVE REBUTTAL

Owen F. Rall, Coe

Mr. Chairman, Honorable Judges and Ladies and Gentlemen: Let us not be dismayed by the mass of material which the third Negative speaker left for me to discuss, for the question this evening has very logically resolved itself into three phases: principle, practicability, and method of enforcement.

My colleagues discussed at some length the first two points: the correctness of compulsory arbitration in principle and in practice. We now come to the issue of whether the awards

of an arbitration court should be enforced by public opinion (this is voluntary arbitration) or by organized public opinion, the government itself.

The Gentlemen insist that it is impossible to stop strikes by governmental action. They point to the recent coal strike as an example. Honorable Judges, we agree that the government was in a most difficult position. Government by injunction failed as it always will fail. We do not agree with the Negative, though, in proposing to allow this same condition to exist any longer. The government must have an organized procedure for settling such disastrous disputes without injunction under a war-time law. This procedure our plan provides.

Let us not be frightened when the Gentlemen say that two million men are ready to strike if compulsory arbitration is adopted. This is merely a bugaboo by which labor leaders are trying to humbug the American people. The statement which the Gentlemen make is from the tongue of Samuel Gompers, the same man who recently declared to the people of the sovereign state of Iowa that it would incur his royal displeasure if it returned Senator Cummins to his seat in Washington.

The Negative speakers have based practically their whole case upon removing the causes for industrial disputes; a most admirable, but at the same time most optimistic, ideal. Why, Honorable Judges, Title III of the Cummins Act provides for that very thing by the very method, collective bargaining, which the Negative advocate. Surely we do not differ on the advisability of reducing to a minimum industrial disputes on the great public service corporations. The Negative defies that we can remove the causes and at the same time compel settlement of the disputes, because they claim that compulsory arbitration is inconsistent with trade unions. Gentlemen, in other words the opposition insists that we must have strikes to have unions. Here we must most emphatically disagree with them, for if their contention is correct, the very unions which they advocate to remove the causes of dispute are doomed to failure.

The Negative denies that public sentiment does demand compulsory arbitration. This charge is of the utmost importance because, as Lincoln once said: "In this country public sentiment is everything. With it, nothing can fail; against it,

nothing can succeed." Perhaps the country does not demand compulsory arbitration for all industrial disputes and right here we would mention the fact that the Gentlemen of the Negative have failed to make their arguments apply as strongly against compulsory arbitration of public service disputes as against all industrial disputes. But, Honorable Judges, the country does demand some system to stop our disastrous public utility strikes. There is no question of this. Governor Coolidge of Massachusetts was re-elected on the slogan that "There is no right to strike against the public safety by anybody, anywhere, anytime." It is unnecessary by the very nature of the discussion to show that the public demands compulsory arbitration by that specific name; it is but necessary to show that our plan insures what the public demands, continuity of service in the public service industries. This, Honorable Judges, has been the very keystone of our constructive and rebuttal argument.

The Gentlemen have fallen into some peculiar fallacies this evening. They insist that there are inarbitrable principles. They have here confused the terms uncompromisable and inarbitrable. But the most significant fact is that the Negative proceed to tell us that these very so-called inarbitrable principles can be arbitrated by voluntary boards. Such is their inconsistency.

We do not understand how they can form an impartial board under their plan and we cannot; where they can get a basis for wage determination when the Affirmative can have none; how they can arbitrate inarbitrable principles; why our problem is too vast while it can be solved by mere voluntary measures under their plan; how their plan can remove the causes for disputes while our's cannot.

Honorable Judges, we will take their plan; we will take their just boards; we will take their just decisions, and enforce the awards, not by mere public opinion but by the majesty of the United States government backed by public opinion. The debate has resolved itself into the question of how the awards should be enforced, whether by public opinion or by the government. Our stand is bold and uncompromising. We favor the compulsory arbitration of all labor disputes in public service corporations. As the Inter-State Commerce Commission failed when it had only the power to recommend and succeeded when

it had the power to command; just as the Articles of Confederation failed because they were voluntary and the Constitution has succeeded because it is compulsory, so voluntary arbitration has failed because it is voluntary and compulsory arbitration will succeed because it is mandatory.

Negative Speeches in Debate Against Northwestern College

FIRST NEGATIVE

Roland D. Paine, Coe

Ladies and Gentlemen: In opening the argument for the Negative this evening I wish to make it clear that the Negative agrees heartily with several of the points advanced by the preceding speaker. There is no question of more vital importance before the minds of the public today than that which involves the settlement of our industrial disputes. The Negative stands with the Affirmative that a paramount solution of our industrial ills is desirable. Again, the Negative agrees that Labor should receive justice and that the public should be protected. All demands of either capital or labor that would be detrimental to the public welfare should be avoided whenever possible.

But the Negative does deny that compulsory arbitration will bring about this very desirable state of affairs. Industrial peace is a condition which every true American wishes were possible. But it is our belief and it will be our duty to prove tonight that compulsory arbitration will serve only to aggravate rather than to solve the difficulties and is therefore not a suitable remedy.

Now there are three questions which the Affirmative must answer in a full and complete discussion of the question this evening.

1.—How long will the awards of the arbitration court be binding?

2.—Will the arbitration court have final jurisdiction or will the right of appeal be granted?

3.—Do you contend that compulsory arbitration will prevent all strikes.

Let me now attempt to remove one delusion that often exists concerning compulsory arbitration. To the average citizen the word arbitration signifies a cure-all for industrial ills. When a dispute arises the first thing thought of is arbitration. But Mr. Business Man, just what does that mean to you? Let us carry the proposition in its simplest form to your own business and see just what it means. You hire a new clerk and say to him "Report for work at 8:30 every morning." The clerk says "I won't come till 10:30." You say "The store opens at 8:30; you must be here at that time." He says "Let's arbitrate." Thus it can be seen that instead of offering a solution for disputes, arbitration only adds more complications.

My part in the discussion this evening will be to prove that compulsory arbitration is wrong in principle. It is wrong, first, because it does not remove the causes of the disputes. Strikes are not ends in themselves, but merely a manifestation of industrial unrest. Compulsory arbitration ignores such causes of strikes as poverty or unemployment; yet such conditions are fundamental to every industrial dispute. Compulsory arbitration cannot prevent sweating, unemployment, accidents—nor does it attempt to remove the causes for them. Compulsory arbitration presupposes an eternal struggle between capital and labor. If the causes are removed, industrial peace is sure to follow. Compulsory arbitration cannot remove the causes because such a device does not deal with the problem at its source; it is only a compromise. F. C. Carleton, author of "History and Problems of Organized Labor" says, "The findings of a board of arbitration is merely a compromise which removes the immediate difficulty; the root of the matter is never laid bare." Instead of trying to eliminate the cause for a dispute, compulsory arbitration tends only to widen the breach, for it brings the two parties into court as accuser and accused. It would increase not lessen the struggle. Each side would have the court decision to fight as well as its opponents. Strikes in the embryonic stages could no longer be settled quietly, for the tendency would be for the stronger to drag the weaker into court. In fact every dispute must become a Federal affair. You cannot arbitrate a dispute until it has arisen and therefore compulsory arbitration attempts to deal with a strike only after it has occurred. Speaking of a national court for

labor, John R. Commons of the University of Wisconsin says, "The plan deals with effects, not causes. Causes must be dealt with months and years before the strike." Ladies and Gentlemen, the abolition of the strike does not depend upon depriving the worker of the right to strike, but rather upon the removal of the causes that occasion a strike. This compulsory arbitration will not do.

In the second place, compulsory arbitration is wrong in principle because many industrial disputes involve principles that cannot be arbitrated. A *Principle,* Gentlemen, can not be arbitrated. To again quote John R. Commons, "Better to have strikes that will compel the people to listen than to let them remain content with such conditions as the chronic unemployment in the coal mines." Unemployment cannot be arbitrated, neither can the eight hour day, neither can the closed shop. Arbitration would have been helpless in 1916 when the Adamson law was passed. In the whole history of American railroads there have been but three general strikes and all of these have involved principles that could not be arbitrated. Congress recognized this fact and provided legislation that settled the disputes. Thus compulsory arbitration is wrong again because many disputes involve principles that cannot be arbitrated.

A third defect in the principle is the system of centralization and bureaucracy to which such a system would lead. If our opponents claim that the Colorado law or the Kansas law has been successful—they must not forget that these laws would automatically become invalid if Federal arbitration were adopted. When the Federal government provides for compulsory arbitration the arbitration laws that exist in practically every state in the union would be destroyed and supplanted by the new Federal arbitration. In the next place—we already have an Interstate Commerce Commission which sets railroad rates. Are we now to evolve an entirely separate commission which will set the wages for railroad workmen? If compulsory arbitration is established we will have one group of men regulating the amount of revenue for the railroads and another entirely separate group regulating expenses. Think of the tremendous power which would thus be centralized into the hands of a very few men. Furthermore, it is impossible to conceive of a single court or commission that could settle

every dispute in public service corporations. There would have to be one central bureau, then district bureaus, bureaus to watch for strikes, bureaus to gather data, bureaus to provide arbitrators. Concerning such a system, John Lenon in the report of the Commission on Industrial Relations says, "The plan proposes to assign to the commission powers far in excess of those exercised by the president of the United States. This we believe to be bureaucracy run mad and a subversion of democracy dangerous to the civil and social liberty of all citizens."

Compulsory arbitration would attempt to destroy the right to strike, and as a fourth defect in the principle of our opponents' plan the Negative contends that no attempt should be made to abrogate this right. Labor never strikes because it enjoys striking. Labor demands the right to strike when it realizes that there are times when the strike and the strike alone is the only means of securing justice. It is as useless to hope for the total elimination of strikes as it is to hope for the elimination of other means of self help and preservation. William Ripley, head of the Harvard economics department says, "At present the laboring man's only weapon is the right to strike." Senator Borah says, "The right to quit work on account of unsatisfactory conditions or wages can never be made unlawful." We must realize that even the drastic threat of a jail sentence would fail to compel a worker to continue at work under conditions which he regards as intolerable. Men will strike rather than submit to conditions which make life impossible. Men will strike against injustice that can be removed in no other way. As Samuel Gompers president of the American Federation of Labor says, "The strike compels more attention to and study into economic and social wrongs than all the essays that have been written."

In conclusion: I have shown that the Negative stands with the Affirmative in advocating justice to labor and protection to the public. But the Negative denies that compulsory arbitration will settle all disputes in public service corporations, and is not, therefore, the means of striking at the roots of the trouble. I have shown you that compulsory arbitration is wrong in principle for four reasons, first, the plan does not remove the causes of disputes; second, only too many disputes

involve principles that cannot be arbitrated; third, such a plan leads to a vast system of centralization and bureaucracy; and fourth, because no attempt should be made to abrogate the working man's only weapon—the right to strike.

SECOND NEGATIVE

John Paul Jones, Coe

Ladies and Gentlemen: Thus far in the discussion this evening the Negative has shown that compulsory arbitration should not be adopted for the settlement of industrial disputes in all public service industries doing an interstate business because it is wrong in principle. It is wrong in principle because it does not remove the causes for the dispute; because many disputes involve inarbitrable principles; because it leads to centralization and bureaucracy; and finally, because it destroys the laboring man's last weapon in his fight to secure justice—the right of recourse to strike.

The Negative also submitted several questions to the Affirmative. The answers to those questions are of vital importance if the Affirmative are to establish a substantial working basis for their plan.

As the second speaker for the Negative it will be my privilege to prove to you that compulsory arbitration is impracticable. It is impracticable for three reasons; first, because it would be too vast an undertaking; second, because experience does not warrant its adoption; and finally, because it cannot be enforced in the United States.

Compulsory Arbitration is impracticable because it is too vast an undertaking. The situation in the United States is very difficult to understand. Instead of being a homogeneous group of individuals with the same ideals, traditions, and aspirations we are a conglomerate mixture of more than forty different nationalities; 400,000 of such individuals work in our bituminous coal fields; 2,000,000 more on our railroads.

In 1914, before the war with its inflated valuations, the public service industries of the United States were capitalized at more than $27,000,000,000. Only about one-half of those

working on the railroads are organized,—yet those organized are divided into four great brotherhoods which are in turn sub-divided into many highly specialized departments.

These conditions exist in all industry today yet the Affirmative ask that Congress enact legislation requiring compulsory arbitration for the settlement of all labor disputes in public service institutions doing an interstate business. Remember, Gentlemen, all disputes pertaining to telegraph and telephone systems, street-railways, gas, and electric companies, express companies, elevators, warehouses, and the like situated, not under one set of social and economic conditions, but situated in every city, village and hamlet in the country.

In view of the complexity of the existing conditions necessarily affecting the proposed measure the Negative would like to ask the Affirmative this question: How will a board of arbitration, fitted to give justice to all concerned, be secured?

The Affirmative must answer this question if they contend that compulsory arbitration will work in this country.

Secondly: Compulsory arbitration is impracticable because experience does not warrant its adoption. Let us see what has been the experience of compulsory arbitration in countries where it has been tried. Compulsory arbitration was made a law of New Zealand in 1894. At first it was regarded as a God-send, but soon the attitude changed and strikes and lockouts became more common after its enaction than before. From 1894-1917 New Zealand had proportionately three times as many strikes as we had in the United States. The New Zealanders form a homogeneous, socialistic group. Government ownership of public utilities and minimum wage laws were established institutions in 1894. Then, labor backed the Act to a man yet the New Zealand Labor Council says: "Compulsory arbitration is not even a partial solution of the labor problem in New Zealand." After noting the dismal failure of compulsory arbitration in this well equipped laboratory we can hardly expect any success for it in this country.

What has been its success in other countries? In Australasia, instead of making for industrial peace, we find that compulsory arbitration between 1910-1914 not only failed to eliminate or even reduce the number of strikes but

under arbitration the number of strikes actually increased 300%; the number of workers involved 500%; and the number of working days lost 700%. Another failure.

Canada has a system of compulsory investigation. The apparent success of the system is interesting. Now, the essential test of any compulsory law is the extent to which it is enforced. The Canadian compulsory investigation law declares certain strikes and lockouts illegal and punishable by fines or imprisonment yet in spite of this in a period of less than nine years there have been more than 84 illegal strikes in Canada's public service institutions.

Those responsible for, or partaking in these illegal strikes have not been punished. Why? Because those who have charge of the administering the law have come to the conclusion that the guarantee of industrial peace, and the continuity of service, rests entirely with public opinion, and that the compulsory feature of the law was a detriment to such service and should be suppressed. W. L. Mackenzie King, author of the law says. "The Government has never laid particular stress upon the penalty end of the law." And Ben M. Selekman clinches the argument when he says: "The Act has not been operated as compulsory investigation, but as a conciliatory measure, the compulsory features of the Act which impose penalty have not been emphasized in its administration."

Finally, compulsory arbitration is impracticable here because it cannot be enforced. To be practicable compulsory arbitration must be enforceable. The Affirmative will, no doubt, admit this, but have they any concrete plan of enforcement to be offered tonight?

Professor Carlton of Albion College says: "Compulsory arbitration depends clearly on the attitude of organized labor." Let us determine its attitude. Samuel Gompers says: "Compulsory arbitration is the very antithesis of freedom, order, and progress. . . . I am opposed to compulsory arbitration in any form." And Secretary of Labor Wilson says: "I have been opposed to compulsory arbitration because I did not believe that any man or set of men should be compelled to work for the profit of any other set of men. This involves a serious question of human liberty which no majority should have the right to invade."

Should compulsory arbitration be adopted, and a dispute be arbitrated, in case there is dissatisfaction with the award of the arbitration board the Government has only three methods by which it can force its award. These methods are: by fines; by imprisonment; or by the use of the military force.

An examination of the first method proves its futility. Sixty-five percent of our people have substantially no property. How will you collect fines from them? But perhaps the Gentlemen of the opposition would rather place rebellious, striking American citizens in jail. We of the Negative will not ask them where they will find sufficient jail room to house 2,000,000 railroad employees or 400,000 miners, but we do ask this: After they have the skilled workmen safe behind the bars who will do the work? How will the continuity of service that the Affirmative have demanded so repeatedly, be secured?

But one method remains to enforce this unsatisfactory award and that method is by the use of military force. If this method is used what will be the result? You will have forced the body back to work but not the spirit. You then have no assurance that the service rendered will be either satisfactory or efficient. President Hadley of Yale says: "The service rendered under such terms would resemble slave labor and might become dangerous alike to the property of the employer and to the safety of the public." Secretary Wilson says: "In such cases of coercion the workers tend to fall away from the influence of organized, constructive, and responsible labor leaders and to come under the leadership of irresponsible revolutionists." If you force this great mass of honest, law-abiding American workingmen to work under conditions which do not satisfy; if you make them work at the point of a bayonet, you have established a system of involuntary servitude. Slavery if you please,—and the important thing to note is that you have inaugurated a system whereby sabotage—either directly or indirectly is at work in our most vital public utilities.

In conclusion, Honorable Judges, I have shown that compulsory arbitration should not be adopted because it is impracticable. Compulsory arbitration is impracticable because it is too vast an undertaking; because experience

does not warrant its adoption; and because it cannot be enforced in the United States.

THIRD NEGATIVE

Edmund B. Shaw, Coe

The Gentlemen of the Opposition have asked us to tell them definitely just what plan we would use to protect the public, in lieu of the compulsory arbitration which we are opposing. Our plan for protecting the public will be presented in detail in the present constructive speech. It is a plan which has the endorsement of the Congress of the United States. It is a plan which relies solely on the two elements which the opposition have named and lauded as the basis of their plan, namely, investigation as a means of discovering the facts and public opinion as an agency for sanctioning and enforcing those facts. But our plan avoids a third element,—an element whose use the Affirmative have not yet justified,—compulsion of force. The Gentlemen can never convince us that any man should be compelled to work for any other man's profit, against his will.

Thus far in this evening's discussion the Negative have established two main contentions. My first colleague has pointed out that compulsory arbitration is wrong in principle. My second colleague has shown that it is impracticable—that it will not work in operation. It will be my duty, in concluding the constructive case of the Negative, to show that compulsory arbitration should not be adopted because it furnishes no basis for industrial peace and because a better method of settling labor disputes in public service corporations can be devised.

Compulsory arbitration furnishes no basis for industrial peace, in the first place because it is impossible for arbitration courts to render just decisions. You cannot regulate wages by law. But this is exactly what compulsory arbitration attempts to do, for 73% of all labor disputes in this country involve questions of wages. Prices of commodities, and wages are and should be determined, not by Congress nor by courts, but by the free play of natural

economic forces. Any attempt to interfere with these natural economic forces will end in inevitable failure. Carrol D. Wright, Commissioner of the United States Department of Labor said, "Every time any country has attempted to fix wages by law, whether in Europe or America. there has been a very contemptible failure."

Compulsory arbitration courts could not render just decisions, in the second place, because there is no generally accepted standard for the determination of a fair wage scale. Thus far economists have been unable to work out any acceptable theory for the determination of a fair wage. They are unanimous only in the statement that as yet no such principle exists. J. Noble Stockett says, in his book "The Arbitral Determination of Railway Wages," "There is no general accepted theory of the division of income between capital and labor. Arbitration without the application of some generally accepted principle of wages in the awards, will continue to be a mere compromise method, accompanied by manifold evils and incapable of effecting an equitable settlement in any wage dispute." Richard T. Ely adds, "It is unfortunate but true that up to the present no one has ever formulated a doctrine of wage adjustment which is at once workable and acceptable to a majority of the people." In view of these statements, we feel compelled to ask the Gentlemen this question, one of the many which they must answer when their courts begin proceedings: "What is your standard for the determination of a fair wage scale?"

In the absence of economic principles to guide in the determination of a fair wage, the awards of the courts would be based solely on expediency and compromise. Such has been the experience of arbitration courts in Australasia. The Victoria railroad strike of 1913 was settled not upon the basis of justice, but by granting all the demands of labor. This award was based on expediency. When the parties to a dispute are of equal strength the awards are based on compromise. Though strict justice might require an award wholly favorable to one side, the board, in order to make its award acceptable, must compromise the demands of both. Thus in attempting to do approximate justice to both sides, the courts do strict justice to neither.

Compulsory arbitration furnishes no basis for industrial peace, secondly, because it destroys peaceful voluntary means of settlement. Note, Ladies and Gentlemen, that the statement of the question reads "Compulsory arbitration of *all* labor disputes of public service corporations. Thus by the statement of the resolution which they are supporting, the Affirmative are bound to advocate the destruction of mediation and conciliation and all voluntary methods, even where these means are adequate to affect a settlement, and to substitute in their place compulsory arbitration for *all* disputes.

But aside from the statement of the question, the very nature of the Affirmative plan would destroy all other methods of settlement. Wherever compulsory arbitration has been tried the dissatisfied party has invariably appealed the decision of the voluntary court, and has submitted, if at all, only when the last and highest court had decided against it. The adoption of compulsory arbitration has always relegated voluntary peaceful methods to the scrap heap and substituted in their place compulsion.

Under a regime of compulsory arbitration, collective bargaining would be destroyed. John A. Golden, Secretary of Labor Wilson, and others tell us that industrial peace can come only where and when collective bargaining is carried on freely. But compulsory arbitration, because it weakens and destroys the labor union, would destroy collective bargaining. Ely, the economist remarks. "Collective bargaining is essentially inconsistent with arbitration."

Compulsory arbitration furnishes no basis for industrial peace, in the third place, because it lacks the support of public opinion. Any such revolutionary and untried scheme as that which the Affirmative are advocating, if it is to attain even a moderate degree of success, must have the united support of those whom it most directly affects. But the three parties affected by compulsory arbitration are unanimous in the belief that the law neither could nor should be enforced. Speaking for the public, Mr. S. O. Dunn, Editor of the Railway Age Gazatte says, "Speaking practically, there are few informed who consider the possibility of applying the principle of compulsory arbitration to railway labor disputes in this country"

The employer has never favored the adoption of compulsory arbitration. It is unfair to him. The awards could be enforced on him but not on labor because he has seizable property while the laborer has none. The employer has no faith in the ability of the government to enforce an award distasteful to labor. Former President Aishton of the Northwestern says, "I do not believe it possible, with our form of government, to enforce compulsory arbitration."

Labor has always opposed compulsory arbitration. Labor opposes compulsory arbitration because it attempts to destroy the right of recourse to strike, and this right labor will defend to the limit. Labor does not regard the strike as something to be entered into lightly, but labor insists on retaining the strike as a final means of securing its integrity, just as a nation, though it may enter arbitration proceedings, maintains an army to be called into play when other methods fail. Samuel Gompers expressed the attitude of labor in no uncertain terms when he said, "Compulsory arbitration courts could not enforce their decrees except the state would re-establish slavery, and to abolish slavery even revolution would be justifiable." Secretary Brady of the Allied Printer's Trades adds, "It is useless to believe that there is any law or any interpretation of law that can compel me or the members of the union which I represent to work when we do not choose to work, and under conditions which do not suit us." Labor is opposed to compulsory arbitration not only because it would destroy the right of recourse to strike, but because with this right would go the union itself. President Garretson of the Railway Conductors says, "Take from the union the right to strike when necessity demands, and you have devitalized and destroyed the union." Senator Borah adds, "Compulsory arbitration is but a way by which to inhibit collective action on the part of labor, and would be the beginning of the end of the labor union."

In view of these statements, which show that the public, capital, and labor are unanimously opposed to compulsory arbitration, it would seem that the choice which we have to make between the extension and improvement of present voluntary methods versus the adoption of com-

pulsory arbitration is the plain choice between voluntary peace and compulsory war.

Having seen that we should not adopt compulsory arbitration for our public service corporations, because such legislation is wrong in principle, because it is impracticable, and because it furnishes no basis for industrial peace, let us now consider the possibility of devising a better plan for the settlement of labor disputes on public utilities. Our discussion this evening has shown that any plan to facilitate the coming of industrial peace must include these fundamental features:

1. Instead of attempting to remove the right of recourse to strike as a final means of securing justice, we must remove the cause and need for such action.

2. The right of labor to bargain collectively thru representatives of its own choosing must be recognized.

3. The element of compulsion must be avoided.

4. Voluntary peaceful methods of settlement should be encouraged.

Congress has recognized these principles as fundamental, and has included all of them in the labor section of the Railway Bill known as the Cummins Law, enacted on February 28 last. Section 301 of this bill recognizes the principle of collective bargaining and recommends its use in preference to any and all other plans. Section 302 provides for the encouragement of voluntary means of settlement through the establishment by the disputants themselves of voluntary arbitration courts. Section 304 provides as a final agency for settling labor disputes on the railroads a voluntary investigation board. This board seeks to remove the cause and need for strikes by conducting hearings, making a thorough study of wages and working conditions on the railroads and publishing its findings. This plan does not attempt the impossible—it does not deny the right of recourse to strike as a final means of securing justice. It relies solely on an enlightened public opinion to sanction and enforce its findings. It avoids that which every American hates when it is unnecessary—COMPULSION.

In case the Gentlemen of the Opposition are not entirely familiar with this plan adopted by Congress for the

settlement of railway labor disputes, we place in their possession for their consideration a copy of the bill as it became a law, and we challenge them to point out any element of compulsion in the law, or any denial of the right of recourse to strike.

We recommend the extension of this plan to all public utilities, with merely such changes in administrative details as will best adapt the plan to the varying conditions of the different utilities. We favor the extension of this plan because it has the support of public opinion. President Wilson, and Secretary of Labor Wilson have both expressed themselves as being in favor of this plan. Our plan has the endorsement of a Congress whose committees conducted hearings and investigations for several months on compulsory arbitration, rejected it as wrong in principle, impracticable, and unenforceable, and substituted in its place the identical plan which we now propose to extend to all public service corporations. Try as they may, the Gentlemen from Northwestern may apologize for it but they cannot explain away this fact—that their plan of compulsory arbitration was discarded, relegated to the scrap heap as worthless—and our plan was substituted in its place as the best plan available. If it were necessary, we could base our case to-night solely on that fact, but there are other arguments of similar finality.

FIRST NEGATIVE REBUTTAL

John Paul Jones, Coe

Ladies and Gentlemen: The Affirmative this evening have spent nearly twenty minutes of their limited time discussing the evils of the strike. They have told you of the great calamity a railroad strike would be to Chicago. They cite the Expressmen's Strike as an example. Our opponents have pictured the United States as though labor held it by the throat. To substantiate this, they have mentioned the Adamson Law of 1916. As a solution for this problem, they demand compulsory arbitration.

Now, Ladies and Gentlemen, we would not be misunderstood. From the very outset of this debate, we

have repeatedly admitted that present conditions are not as amicable as they should be, but we deny that compulsory arbitration is the correct solution.

The Affirmative would have you to believe that the Government, through compulsory arbitration, would be able to give justice to all concerned. Now, it is easy to talk justice, but to set a fair wage is a different proposition. We are not dealing tonight with sentimental patriotism, but rather with cold facts. What is this justice, of which our friends speak so freely? If an arbitration board is to dispense justice, it must decide what is fundamentally just. Now, we do not like to add to the already heavy burdens of the Affirmative, but, since they have broached the question of justice with such confidence, we feel we must ask them the very first question an arbitration board must answer before it can give justice. What is a fair basis for wage determination? Let them tell us, not briefly but clearly and concisely just exactly how a fair wage will be determined.

We have asked the Affirmative to meet us on the issue of enforcement. They have failed absolutely to give us any definite machinery for the enforcement of an unsatisfactory award. We again challenge them to meet us on this issue. So far, they have evaded the practical details and spoken only in a vague confusion of generalities. They have dwelt long on the power and majesty of our Government to enforce its awards; they have told us that the Government was able to enforce its awards against the railroad strikers in Chicago in 1902, yet they failed to mention the fact that only five months ago the Federal Court issued an injunction against the coal strikers which was not obeyed. The Federal Court issued the injunction to stop the strike, but the miners remained on strike just the same. The Government then arrested the leaders, but the miners were on strike and likely to remain so. When the Government promised, not arbitration but investigation, the men returned to work.

What power could be organized to enforce arbitration greater than that of the Federal Court which issued the injunction? There is no greater power, and that power having failed, there is no recourse. The failure of the in-

junction in the coal strike proves that you can not force men to work when they do not choose to work.

Throughout the debate this evening, both teams have agreed that existing conditions are not the best and should be changed. Therefore, we of the Negative demand that the Affirmative stand for compulsory arbitration, not as a theory, but as a practical proposition.

SECOND NEGATIVE REBUTTAL

Roland D. Paine, Coe

Ladies and Gentlemen: Let us consider for a moment the practicability of compulsory arbitration and examine the answers the Affirmative have given to our questions. In answer to the first question they tell us that the awards of the court should remain binding until the court sees fit to change them. The solution sounds splendid. But we must remember that both disputants can not be satisfied by the award of an arbitration court. What then, is to prevent the disappointed party from literally camping on the doorstep of the court until the court sees fit to change the decision?

In regard to the second question, we admit that the Affirmative have devised a new idea. They would set up a new system of labor courts with power merely to hear and pass upon appellate cases from arbitration courts. Now frankly Ladies and Gentlemen, does the plan sound practicable? If it is practicable, why has it not emanated from experienced, trained professional economists, instead of from such amateur economists as college debaters?

In answering the third question, the Affirmative admit that compulsory arbitration will not prevent all strikes. But Ladies and Gentlemen, it is very logical to believe that if compulsory arbitration will not prevent all strikes, that it will fail to function at the most critical time, that it will fail to prevent those strikes which most vitally effect the public. It is those strikes which we are discussing tonight. When the Affirmative admit that their plan will not do away with all strikes, and since the strikes that do

occur in public service utilities are the very ones that compulsory arbitration should prevent—they are admitting that compulsory arbitration will fail to prevent those great strikes upon which they have based their arguments for the necessity of compulsory arbitration this evening.

Let us notice another inconsistency in our opponents plan. The second speaker said—"Voluntary arbitration cannot hope to succeed because it lacks the element of compulsion." Then the next speaker declared that all voluntary means of settlement should be encouraged. Now the inconsistency itself is not so damaging as the fact that when the Affirmative assert that voluntary methods would be encouraged, they admit by their own argument that compulsory arbitration should not be applied to *all* labor disputes. But remember, Ladies and Gentlemen, the proposition we are debating declares—"Congress shall enact legislation providing for compulsory arbitration of *all* labor disputes in public service utilities."

Our opponents have appealed to your emotions by vividly describing what effects of a nation wide strike might be. They picture a nation without coal, without lights, and with disease and crime stalking through the land. To deal with such an imaginary state of affairs our opponents clamor for "a definite means of settling labor disputes." As the definite means, they argue that a plan similar to the plan advocated by the Second Industrial Commission is most logical. But the report of that Commission specifically stated that its plan of settling labor disputes "does not propose to do away with the ultimate right to strike." The case then stands that our opponents in arguing for compulsory arbitration, seek to work out their proposition by a plan similar to the one set forth by the Second Industrial Commission, a plan which does not prohibit strikes, a plan which is not compulsory arbitration.

The Negative has already suggested a solution for the strike problem. We do not contend that our plan is a cure-all. But we do contend that if compulsory arbitration is what the situation demands, that Congress would not have failed to place compulsory arbitration as set forth in the Cummins bill, as a law on our statute books. Congress heard all the arguments for compulsory arbitra-

tion that the Affirmative have presented tonight and yet refused to make it a law. Our opponents will tell you that the attitude of labor make Congress afraid to pass the Cummins bill. But Ladies and Gentlemen, if labor can so dominate Congress as to control legislation, we ask you frankly, what could labor do—or rather what could *not* labor do with an arbitration court?

In the last analysis, the issue of this debate is a question of plans. Contrast them, Ladies and Gentlemen. The Affirmative present a plan which was considered by the Congress of the United States. But after careful deliberation it was turned down, Congress would not pass legislation which makes strikes unlawful. Mr. Esch, Chairman of the House committee of Inter-State Commerce, said: "Anti-strike legislation was attempted in the original bill, but similar laws in foreign countries had been failures as far as preventing strikes was concerned." In other word, Congress realized that any law which included the prohibiting of strikes was doomed to failure—and yet is that not substantially the same plan for the settlement of labor disputes which the Affirmative offer tonight?

Our plan does not attempt the impossible. It is a safe and sane method. As attorney general Palmer stated: "There need be no restrictions of the rights of men to strike and no compulsory arbitration of differences if provision is made for the American public to be advised of all facts in relation to every dispute so large as to effect in its consequences a considerable portion of the public." Ladies and Gentlemen, the decision of Congress, the representatives of the American people, has been for voluntary investigation, *not* compulsory arbitration. What is your decision?

THIRD NEGATIVE REBUTTAL

Edmund B. Shaw, Coe

The goal towards which both sides have been striving in tonight's debate is industrial peace, and continuous service on our public service corporations. The Negative and the Affirmative differ, then, only in the means to be used

to secure these highly desirable ends. The Affirmative have proposed compulsory arbitration as the only solution of the problem which confronts us. The Negative, on the other hand, have proposed the extension of the labor section of the Cummins Bill to all the industries coming under the scope of the question which we are discussing tonight. We may devote the remainder of this discussion, therefore, to a study of the nature of the real problem which confronts us and to a comparison of the merits of the Affirmative and the Negative plans for solving that problem.

The Gentlemen of the Opposition have questioned our statement that labor is unequivocally opposed to compulsory arbitration. They deny that Samuel Gompers has committed himself definitely against the measure. In order that we may get clearly before us Mr. Gomper's attitude on compulsory arbitration, let us read his statement made before the Senate Committee on Interstate Commerce, in December: "Compulsory arbitration is the very antithesis of freedom, and order, and progress. I am opposed to the adoption of compulsory arbitration in any form."

In attempting to establish the need for compulsory arbitration as the only remedy for strikes, lockouts, and industrial unrest, the Affirmative have relied on the situation which confronts us in two of the leading industries, the railroads, and the coal mines. We have had pointed out for us in a striking manner the dangers which the nation would face in case of a national railway tie-up. But the picture is purely an imaginary one. What does an investigation of the facts reveal? It shows that there have been but three national railway tie-ups in the history of the country, and all three of these were previous to the enactment of the Erdman Voluntary Arbitration Act of 1896. True, there have been numerous threatened tie-ups since that date, but all have been averted by means incomparably superior to compulsory arbitration. The Gentlemen have pointed out the need for compulsory arbitration as shown by the coal strike. No one would deny that the public was inconvenienced to no inconsiderable extent by the resultant coal shortage. But would compulsory arbitration have saved the situation? The government, under its wartime grant of powers in the Lever Bill had recourse to all the weapons

for forcing the miners to work that it would have under compulsory arbitration. Fines, imprisonment of leaders, and the injunction were all tried. The miners' officials were compelled to order their men back to work. But the strike continued, and it ended, not by compulsion, but upon the promise of voluntary arbitration. If the coal strike illustrates anything, it illustrates the impotence of the government to compel men to work under conditions which do not suit them.

But what of the arguments of the Affirmative to establish the practicability of compulsory arbitration? They have told us that the measure should be adopted because it is the logical next step in industrial reform. On the contrary we contend that compulsory arbitration is neither logical nor the next step. It is not logical because it attempts to force others to give up force. Nor is it the next step. The arguments of the opposition are too far-fetched. They have so far failed to convince us that fifty years of collective bargaining and voluntary means of settlement can ever have as its goal *compulsion.*

The Affirmative have told you that compulsory arbitration would prove practicable because it would narrow its own field. They have told you repeatedly that voluntary means have failed—that they are unsatisfactory and unjust—and yet they advocate compulsory arbitration because it would encourage the very methods which have failed so ingloriously, and which they say are unsatisfactory.

The Gentlemen have told us that the right to strike does not exist in public service corporations, and then they tell us that compulsory arbitration gives labor a greater right in return for the right to strike. They admit in one sentence what they denied in the preceding one. If the right to strike does not exist surely its destruction does not call for the substitution of a greater right.

In answer to our question as to how the Affirmative would enforce the awards of the arbitration courts, the gentlemen have told you that labor would accept the decisions of the courts because they would be just. How do the Gentlemen know and how can labor know that these awards will be just so long as the Affirmative are unable to answer

our question as to what the basis for determining the awards would be.

In concluding the argument of the Negative, let us recall some of the things which the Affirmative have not yet done but which they must do if they are to establish their case for compulsory arbitration. They have not told us just what specific weapon would be used in enforcing an award distasteful to labor. We have discussed the various alternatives open to the government-fines, imprisonment, injunctions, and force. We have shown how and why each would fail. The opposition has been strangely silent on this issue. They assure us that their plan can be enforced, but they do not tell us how. We are discussing compulsory arbitration as a practical problem, not as a philosophical one, and as a practical problem it demands a practical means of enforcement. The gentlemen have not submitted a standard for the determination of a fair wage. We have shown that 73% of the disputes which arbitration courts must settle involve questions of wages, and that there are no guiding principles to be used as a basis of their decision. Last of all, and most important, the Gentlemen have been unable to explain to us why a Congress which considered compulsory arbitration for several months should finally exclude it from the Railway Bill and substitute in its place the plan which we propose should be extended to all the industries coming under the scope of the question—namely, a plan of collective bargaining, and voluntary arbitration.

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CHAPTER VI

THE CLOSED SHOP

UNIVERSITY OF WASHINGTON

versus

LELAND STANFORD JUNIOR UNIVERSITY

RESOLVED: *That the movement of organized labor for the closed shop should receive the support of public opinion.*

This is the report of the debate between an Affirmative team representing the University of Washington and a Negative team representing Leland Stanford Junior University, held at Seattle, March 5, 1920. The decision was unanimously in favor of the Washington team. This report is prepared from copies of the speeches furnished by the debaters thru Mathew Hill, Debating Coach for the Washington team and Miller L. McClintock, Instructor at Stanford.

BRIEF

THE CLOSED SHOP

AFFIRMATIVE

INTRODUCTION:

A. The Affirmative defends the principle of the closed shop from the standpoint of neither labor nor capital but of the consuming public.
   1. The Affirmative believes that the closed shop will prove beneficial to the public.

B. By the closed shop is meant a written bargain or agreement between the organized workmen in any industry and their employers, by the terms of which the hours of labor, wages to be paid, etc., are specified.
   1. It is admitted that this involves compulsory membership in trade unions.

C. The question then resolves itself into two propositions.
   1. Is collective bargaining generally advantageous?
   2. Are trade unions generally justifiable?

D. If so, then the closed shop which is for the purpose of securing effectively both collective bargaining and trade unionism is also desirable.

I. Collective bargaining and trade unionism are justifiable.
   A. Collective bargaining is necessary.
      1. Under present day conditions the individual contract is a farce.
         a. Employers and employees no longer meet face to face and on equal terms.
         b. Employers are a group of stockholders who organize to deal with labor thru a representative—the manager of the corporation.

(1) The manager does not and cannot know workmen personally.

2. Without the closed shop, capital is in a position of monopolistic power over both the labor market and industry.
   a. The employer can refuse to deal collectively with labor.
      (1) Judge Gary absolutely refused to do so in the recent steel strike.
   b. Any progress in labor union ideals under ostensibly open shop conditions is not a valid refutation of this contention.
      (1) Any industry where the unions control sixty percent or more of the workers, is virtually a closed shop.
3. Capital is using its power everywhere to nullify the principles of collective bargaining and trade unionism.
   a. In Phoenix, Helena, Dallas, Yakima, Butte and other cities, union men, attempting to negotiate a collective bargain, have been denied the right to work.
   b. This is only part of a nation-wide movement of capital to destroy the unions.
4. Even where employers are open-minded and generous, the open shop is a menace to the union.
   a. It is demoralizing to the union for non-union men to receive the same advantages that union men have secured as a result of collective bargaining.
      (1) Members tend to break away from the union, feeling they are as well off unorganized.

II. The closed shop is desirable.
   A. It would give to labor the determination of its own affairs.
      1. Labor will be put on even terms with capital, with no unfair advantage to either side.
   B. It would do away with certain evils in trade unions.

1. These evils are not inherent but are incidental to certain conditions.
   a. Since capital is in a position of monopolistic power, labor can secure justice only by fighting for it.
2. The closed shop would remove these conditions.
   a. Trade unions would no longer be kept on the defensive.
   b. These evils would disappear.
      (1) The wage workers are essentially honest.

III. The closed shop is already in successful operation.
   A. The United States Department of Labor has testified that the fears of employers concerning the closed shop have proved groundless.
   B. When employers have been willing to negotiate with organized labor differences are almost always settled satisfactorily.
   C. Industrial peace is conserved thru established and fairly recognized labor organizations.
   D. Similar testimony has been rendered by the Presidents' Mediation Board, the Committee on Industrial Relations in the United States, and the National War Labor Board.
   E. The same is true of conditions in Canada.
      1. The Committee on Industrial Relations for Canada has recommended official recognition of the closed shop by the government.

NEGATIVE

INTRODUCTION:

A. By the wording of the question the Negative is not bound to support the open shop.
   1. It is not the only alternative to the closed shop.
   2. The preferential shop will solve the problem.

B. The union preferential shop was adopted first in 1910 by garment trades in New York largely thru the efforts of Louis D. Brandeis.
   1. It has since then been generally adopted thruout the East.

I. The preferential shop is preferable to the closed shop.
   A. The preferential shop means the adoption of union conditions of work for all workers.
   B. When union and non-union men of equal skill apply for work, union men shall be given the preference.
   C. The only restriction on membership in the unions is that of skill.
   D. The preferential shop includes boards of arbitration to which the employee may present his grievances and have them settled.

II. The adoption of the closed shop would be inimical to the economic interests of the public.
   A. It would result in a great labor monopoly.
      1. The power of bargaining would be in the hands of one group of 21,000,000 workers.
         a. Such a group would enforce any claims it chose to put forth.
      2. When any group, labor or capital, is given complete control, it will use that power to its own interests and will abuse it.
   B. The employer, whose business is incorporated and who is therefore, legally responsible for all contracts entered into would have to bargain with a body having immense power but which could not to be held legally for contracts made.
   C. There would be no body adequate to restrain the excesses of the laborers.
      1. Under the preferential shop there will be a body of non-union men at all times.
         a. This will act as a check on any excessive demands of the union.
   D. It would not be wise to adopt the closed shop at this time.
      1. Production is already being curtailed and the closed shop would hamper it still further.

E. Under the closed shop three alternatives will be open to the employer.
   1. To grant the demands of the laborers, to refuse to do so which would result in strikes, etc., or to combine with labor against the public.
   2. In any event the public would pay dearly.

III. The closed shop would enable a class-conscious group of workers to secure political aims by direct economic pressure.
   A. The English railroad, transport and dock strike of 1919 was an attempt to force political ideas upon a nation which had just repudiated those ideas at the election.
   B. The American Federation of Labor has declared its intention of disregarding the law, if the anti-strike provision of the Cummins Bill should be enacted.
   C. The Adamson Eight-Hour law is another example.
   D. The result of such happenings is a loss of respect for law and the weakening of democratic authority.

IV. The closed shop would be inimical to the best interests of labor.
   A. It is not for the best interests of the unions themselves.
      1. By their excessive demands they lose the confidence of the public and become discredited.
   B. It is detrimental to the laborers.
      1. They are often discriminated against by the unions.
         a. Initiation fees are excessive.
         b. The number of apprentices permitted is unduly restricted.
      2. The patriotic American worker would often be deprived of work by the violent policies of many unions.

C. In case of unionization of government employees the government would be forced to discriminate among its own citizens before permitting a man to enter the government service.

V. The union is not a final solution of the labor question.
A. It is simply an instrument in the present industrial warfare between labor and capital.

THE CLOSED SHOP

UNIVERSITY OF WASHINGTON

versus

LELAND STANFORD JUNIOR UNVERSTY

FIRST AFFIRMATIVE

Kenneth Collins, Washington

At the outset of this debate, the Affirmative wishes it distinctly understood that it holds no brief for either labor or capital. It is not our intention to defend the closed shop system from the standpoint of organized labor, nor is it our intention to defend it from the perspective of capital. We are solely concerned with the best interests of the consuming public at large, believing its advantage to be paramount to that of any partizan group. The major issue of this debate then rests upon the following proposition: If the Closed Shop agreement be inaugurated extensively in industry, how will it affect the consuming public? We of the Affirmative maintain that its operation will prove distinctly beneficial to that group, and it is upon this contention that we base our support of the closed shop.

In order that there may be no confusion as to terms, let me point out the exact meaning of this closed shop agreement. It is simply a written bargain or agreement, entered into by the organized workmen in any industry, with their employers, by the terms of which the hours of labor, wages to be paid, and matters of mutual concern are specified. That this involves the principle of compulsory membership in the trade unions, we of the Affirmative are willing to frankly concede, and we wish to point it out at this time, but we wish to further call to your attention the fact that this principle is one that is being so universally applied in our

American government that it creates little or no comment whenever advanced. The draft, the jury system, the scope of law—all of these involve the principle of compulsion which is based upon the idea that when any measure is for the best good of the majority, then it justifies the use of force. And it would be a distinctly anomalous situation, if it could be demonstrated that the operation of the closed shop was for the interest of the majority, if we could not justify compulsory membership in the trade unions to gain that end.

Since it is seen that the closed shop agreement involves the compulsory organization of all the workingmen into trades unions for the purpose of making a collective bargain with their employers, the public is immediately confronted by the following two propositions: Is collective bargaining generally advantageous? Are the trades unions generally justifiable? These two questions must be borne distinctly in mind for the conclusion we arrive at with respect to them will determine, in large measure, the issue under controversy. If collective bargaining and the trade union can be shown to be desirable, then the closed shop which is for the effective securing of these two things is also desirable, and, carrying the contention one step further, if it can be demonstrated that the operation of these two principles is open to destruction under open shop conditions, then it becomes obvious that the open shop must be discarded in favor of a system that will permit us to attain the two objects desired. Here, then, is the case of the Affirmative which I will endeavour to substantiate: Collective bargaining and the trade unions are justifiable. We believe that this proposition will be generally accepted; we believe that the gentlemen of te Negative will accept the principles of unionism and collective bargaining as established in our present day industrial system. The issue between us then becomes this: How can we best secure the operation of these two propositions? By the open shop or by the closed shop? However, while we anticipate that the Negative will accede to collective bargaining and trade unionism, a few words explanatory of the necessity for them will serve to clarify the situation.

Two centuries ago there was no necessity for collective bargaining. The number of workmen and the number of

employers was about evenly divided and the two could meet together to establish the terms of labor by individual contracts. Today, the employers are a heterogenous group known as stock-holders, who organize together to treat with the workingmen thru a representative who is an officer in the corporation. This responsible employer, or manager, treats daily with tens and thousands of employees in a fashion precluding the possibility of any intimacy of contact. He does not, and he cannot know them personally. Their needs, wishes, and interests remain unknown to him. He cannot have a stream of them passing thru his office all day long, retailing their troubles and stating what they feel should be their return for services rendered. Thus, the individual contract becomes a farce. It is a contract drawn up by the manager which must be accepted by the trade. Unions are desirable—why adopt any half way stand? We must have the system that is most effective in the matter of securing these two propositions. Now, in case it is the contention of the Negative that the open shop will guarantee a greater measure of collective bargaining than the closed shop, let me point out what this open shop consists of and the virtual impossibility of any security of these principles thru its operation.

The open shop is a situation where the workmen may, or may not, be organized for the purpose of treating collectively with capital. Whichever one of these two conditions obtains, rests solely upon the whim of the organized employer. Let me make this proposition clear. If an employer does not choose to treat collectively with labor, he may refuse to do so. He may hire all non-union men; he may deny the very existence of the union, or he may deprive its members of the right to work. This means but one thing. Capital, under the open shop, is in a position of monopolistic power over both the labor market and industry. And let me point out at this time, that any progress in labor union ideals under ostensibly open shop conditions is not a valid refutation of this contention. In any industry where the unions control sixty, seventy, or any greater percentage of the workers, such establishment is virtually a closed shop and it is in these industries where conditions approximate those of the closed shop that the unions have

gained strength. But instances of this situation are comparatively rare and in the majority of industries where labor is not highly organized, capital is in a position of monopolistic power. What is there to deny the employer the privilege of hiring all non-union men? And if he does so, where is the opportunity for the workers to bargain collectively? Where is the chance for them to have any determination in their own affairs? There is none. Labor must accept the terms imposed by capital which means but one thing: capital under the open shop is in a position of monopolistic power over industry and the labor market. In substantiation of this assertion let me quote Dr. F. C. Farrell, who says in this pamphlet. "Trades Unions and Monopoly"; "Just so long as the open shop obtains, just so long will the organized employer exercise a dangerous monopoly in industry, for he has the power to weaken the trade union and to nullify the principle of collective bargaining."

Let me point to the testimony of actual fact and further substantiation of this contention. According to the Survey, January 31, 1920, subsequent to the recent coal miners' strike in the bituminous fields, the employers absolutely refused to reinstate over two thousand workmen who had struck to demand a collective bargain. The right to work, the right to belong to a trade union and, consequently the right to make a collective bargain in the bituminous coal mining industry rests, today, solely upon the whim of capital's monopoly,—and it has refused all these things.

The recent steel strike was called because Judge Gary refused to bargain in any way, other than his own, with his organized employees. Strike breakers were imported, the strength of the union was crushed, and today Judge Gary refuses to reinstate any of the men who struck to demand a collective bargain. What recourse have they from this exercise of monopolistic power? None whatsoever. They must go without employment because Judge Gary refuses to grant it to them. And in this connection we of the Affirmative wish to point out who this man Judge Gary is. He is simply the representative of tens and thousands of investors scattered throughout the country, who have organized together that they might bargain through him collectively with the workmen. Has he, on his part, any moral

right to deny a similar organization on the part of the workmen through which they may bargain collectively with him? Yet this is precisely what he has done, and today his monopoly is absolute; the power of collective bargaining is crushed.

Ladies and Gentlemen, these are not isolated cases. Capital everywhere is in a position of monopolistic power which it is using for the purpose of nullifying the principles of trade unionism and collective bargaining. Capital has seen fit to employ this power in Phoenix, Arizona; Helena, Montana; Pensacola, Florida; Dallas, Texas; Yakima, Washington; Butte, Montana, and a score of other cities in which union men, attempting to negotiate a collective bargain, have been denied the right to work. Nor are these sporadic evidences of a desire to exercise monopolistic power on the part of the employers. They are the result of a nation-wide movement on the part of capital to destroy the unions and collective bargaining. The president of the longest transcontinental railroad in the United States said in an interview on December 20 of last year: "Once the railroads are returned to private ownership, the unions must accept our terms or get out"; the Associated Industries of Seattle is quoted as saying: "It is urged that all employers deny union men any semblance of power to enforce a collective bargain"; The National Employers' Association is reported to have issued the following statement: "Trade Unionism is a menace to private property and must be curbed." The whole situation has been comprehensively summed up by the late Secretary of the Interior: "Speaking generally, it may be asserted that the employers are giving the impetus to a movement for the destruction of the trade unions."

Ladies and Gentlemen, by the logic of the situation where capital may shut union men out of their establishments; by the cumulative evidence of facts taken nation-wide; by the statement of employers and by the testimony of economists and labor experts, we are led irresistably to the conclusion that capital, under the open shop, is in a position of monopolistic power and that it is exercising that power to crush trade unionism and, consequently, the power of collective bargaining. If the gentlemen of the Negative favor trade unionism they cannot with consistency advocate the con-

tinuance of this open shop situation. If the gentlemen of the Negative favor the continued spread of the principle of collective bargaining they can with no greater consistency ask your support of an economic system that is tending to destroy that principle. The open shop tends inevitably to be a closed shop to the union men and a closed shop to collective bargaining.

There are times, however, when the employer is big enough and magnanimous enough not to exercise his power to destroy the unions and collective bargaining. But even granting this, granting that he will be willing to permit them to exist, they are constantly in danger, under the open shop, by the presence of union and non-union men working side by side in the same establishment. Here are the union men who have organized together that they may achieve the results of collective bargaining. They have bargained for their wages, yet here are the non-union men receiving the same remuneration for their labor. They have bargained collectively over the conditions of their employment, yet here are the non-union men working under the same advantages. It is an exasperating situation to the men in the union and they tend eventually to break away, one by one, from their organizations, feeling that they will be as well off unorganized as organized. Ultimately, the strength of the unions becomes so weakened that they can no longer bargain collectively at all, and the monopolistic power of capital can be exercised without any semblance of a check.

We are led back to my original contention that the open shop means the placing of monopolistic power in the hands of capital which is using that power to destroy unionism and the principle of collective bargaining. And even conceding that capital may at times be willing to grant these propositions the right to exist, they are constantly in danger by the presence of union and non-union men working side by side in the same establishments.

The opponents of the closed shop may say that they favor trade unionism and collective bargaining, but I have proved to you that there can be no effective collective bargaining under the open shop. We have but one alternative to that system, the closed shop.

Let us examine, briefly, the conditions under the closed shop. Under it we would give labor the determination of its own affairs. In other words we would simply bring it to a position of equality with capital that being the fundamental concept upon which the principle of collective bargaining is based. Nothing could appeal stronger to the spirit of fair play existent in the minds of the American people than this situation. The closed shop simply means that labor and capital will meet together on exactly even terms without advantage to either side. The very mechanics by which the two parties operate will be precisely the same. Capital today has its administrative unit within each city, the Associated Industries; labor has its administrative unit within each city, the Central Labor Council. Capital has its State Employers' Associations, labor its State Federations. Capital has the National Employers' Association, labor has the National Trade Unions. Both, in so far as they concern interstate affairs, are subject to the general jurisdiction of the United States government. This will be the situation under a universal application of the closed shop.

In case the contentions of the Affirmative may not be absolutely clear up to this point, let me restate them. We have advanced the principles of trade unionism and of collective bargaining; we have justified these two things; we have shown that the operation of the open shop tends to destroy them; we have shown that the closed shop guarantees their perpetuation by placing the two factors of production upon equality.

Let me carry our case one step further and speak of the character of the two organizations involved in this closed shop. It is hardly the question that in the past, capital has proven itself to be an irresponsible and unlicensed group. That this situation has been partially overcome by legislative enactments goes without saying, yet the testimony of our own knowledge will not lead any of us to impute virtues to the organized employer which he does not possess. On the other hand, it cannot be asserted with any measure of truth that the trade unions are without their evils. To these the opponents of the closed shop may point. We of the Affirmative are willing to frankly admit that certain abuses have crept into the trades' organizations,

but we DENY that they are in any way inherent to their growth. And in this connection let me point to a vital distinction between the nature of evils. There may be abuses that are incidental to a certain set of conditions, and there may be inherent evils that are present under any circumstances. Bear this distinction in mind for it means this, if the gentlemen of the Negative point to the existence of certain evils in the trade unions as presently constituted; if they maintain that these same evils may be present under the closed shop, then they must be inherent evils and the gentlemen of the Negative attack the trade unions more than they do the closed shop, thus shifting the issue of this debate from the open versus the closed shop to trade unionism versus no trade unionism.

Let me point out the reason for the existence of certain evils in the trade unions. You will recall that capital is in a position of monopolistic power; that capital is constantly using that power to thwart the best interests of the trade unions. What has been the inevitable result? The unions have been placed in a position where they could secure no justice without fighting for it. Threatened on the one hand by capital, on the other hand by the presence of the non-union workmen, with the general public standing all the while in the background as an apathetic or even a hostile arbiter, they have had no recourse at times save a resort to violence. That is the reason for the existence of manifest evils in the trade unions. Secure their entity under the closed shop, do not force them to remain constantly on the defensive and their character will change.

Let me make this clear. Conditions under the open shop call into existence certain abuses in the unions because they are compelled to fight for those privileges and rights which should be freely accorded wage workers; conditions under the closed shop are the antithesis of this and we may expect from the very nature of things to find a vast improvement in the trade unions under the operation of that system.

In case the contentions of the Affirmative may not be absolutely clear, let me re-state them. We have advanced the principles of collective bargaining and the trade unions; we have justified these two things; we have shown that the

operation of the open shop tends to destroy them; we have shown that the operation of the closed shop secures their perpetuation. Now the gentlemen of the Negative have but one of two stands: they may either deny that collective bargaining and trade unionism are desirable propositions or, failing to do this, they must prove to your satisfaction that they can be made more EFFECTIVE by the operation of the open shop than by the operation of the closed shop.

FIRST NEGATIVE

Ross C. Fisher, Stanford

Honorable Judges, Ladies and Gentlemen: The Affirmative this evening have presented us with two alternatives. They have stated that we have but two possible lines of action; that we must either defend the open or the closed shop. They have painted for us a lurid picture of the defects of the open shop, and we are in hearty accord with all of their statements. We abhor quite as much as do the Affirmative the conditions in the steel industries. We do believe, though, that the closed shop represents labor's extreme demand in their fight against capitalism. On the other hand, the demands of the capitalists for the open shop we believe are extreme demands as a retaliatory measure against the demands of labor for the closed shop. Both of the alternatives which the Affirmative have spent an entire speech in analyzing are the extreme demands of the two groups. Between these two extremes we believe we have all the conditions necessary for a just compromise. Labor must retract its demand for the closed shop; capital must abandon its claim for the open shop.

A third possibility which the Affirmative have failed to present to you this evening, and a middle ground between the alternatives exists in the union preferential shop. Throughout this debate we wish to meet the issue squarely. With that end in view we intend to outline the plan which we propose and then throughout the debate to compare and contrast the two plans proposed, the closed shop and the union preferential shop and to determine in the light of im-

partiality which of the two is the better solution for the present industrial problems.

The union preferential shop was first adopted in 1910 by the garment trades of New York city largely through the efforts of Louis D. Brandeis, now associate justice of the supreme bench, at the conclusion of a strike which had crippled the garment industries of the city for several months. A demand for the closed shop on the part of the workers and a natural fear of it on the part of the employers was responsible for the strike. Within three years after the adoption of the plan it had been generally adopted throughout the cities of the East in the needle industries. The agreement of 1910 included its adoption in 123 firms of New York having a total working force of 15,000 employees. By the spring of 1913 over 65,000 persons were working under protocols providing for the preferential union shop. In 1916 no less than 150,000 workers operated under this system.

The plan we propose includes essentially four main features: First, the plan includes the adoption of union conditions of work for all workers. This, it must be noted, is one of the primary demands of the American trade unions to-day. Second, when union and non-union men of equal skill are applying for work the union men shall be given the preference. Third, the only restriction on membership in the unions shall be that of skill. Fourth, it includes boards of arbitration and grievances to which the employee may present his grievances and have them settled. So successful has this provision of the union preferential system been that in two and one-half years 97% of the 7,000 cases arising were settled in the first instance. Only twenty were carried to the higher courts of arbitration for settlement.

Having seen in brief the essentials of our plan, it is our purpose in the remainder of this debate to examine the two plans proposed, compare and contrast them, and see which is the better to adopt. In endeavoring to show the superiority of our plan, the preferential union shop, we will base our arguments on four main contentions: The first I have already outlined being that the union preferential is superior to the closed shop. Second, that the adoption of the closed shop would operate to the economic disadvan-

tage of the public at large. Third, that the closed shop would enable a class conscious group of workers to gain political ends through direct economic pressure. Fourth, that the closed shop would operate to the disadvantage of the unions and worker.

The first way in which the closed shop would be inimical to the economic interests of the public is that it would result in a great labor monopoly. The Affirmative proposes to place a great bargaining power in the hands of one group, that group being 21,000,000 of workers, a body strong and powerful enough to enforce any claims that it should choose to demand. Here, we wish to lay down this fundamental truth; namely, that when any group, whether it be labor or capital, is given complete control it will use that power to its own interests and will abuse it. We have found extraordinary demands arising from closed shop industries simply because under a closed shop the workers were able to enforce whatever demands they wished. And yet the members of the opposition would propose to place this great monopoly power in the hands of 21,000,000 of our workers!

Professor Frank W. Taussig, professor of economics at Harvard, and the foremost economist in America to-day in his book "The Principles of Economics," volume 2, page 284, says: "The closed shop is a powerful weapon in support of the monopolistic type of trade union. The union through the closed shop has the situation well in hand."

There is another peculiar situation that would arise out of the closed shop. The trade unions have persistently refused to incorporate and are today an incorporated body. The employer then, under the plan of the Affirmative, due to the fact that his business would be incorporated and therefore legally responsible for all contracts entered into, would be compelled to bargain with a body having an immense monopoly power and one which could not be legally held for contracts made. We see thus that the adoption of the closed shop in all industries would result in a dangerous monopoly power being placed in one group.

Not only are the trade unions unincorporated and so not legally responsible for their actions, but further there would be no body adequate to restrain the excesses of the

laborers. By the provisions of Section 6 of the Clayton Anti-trust law the trade unions are placed beyond the jurisdiction of that law. Thus there could be no body adequate to restrain the unions. If there be any adequate check on the unions under the closed shop we ask that our opponents point them out.

At this point let us contrast the two plans so that we may see the superiority of the plan we propose. Our plan does not provide for an all inclusive membership. There will be under our plan a body of non-union men at all times. The unions would be unable to enforce unreasonable demands for they would not have the monopoly power necessary to carry out any such demands. They would be aware that final resort might be made to non-union workers if they should persist in any unreasonable demands. Our plan proposes to stimulate a strong and healthy unionism without giving them undue power.

Louis D. Brandeis, associate justice of the United States Supreme court and a recognized friend of labor, stated in the National Civic Federation Review, v.2, p. 16: "The ideal condition for a union is to be strong and stable and yet to have in the trade outside its own ranks an appreciable number of men who are non-unionists.—Such a nucleus of unorganized labor will check oppression by the union as the union checks oppression by the employer." We see, thus, in this first instance the superiority of a union preferential plan, in that it would not create a dangerous labor monopoly.

It would further be especially unwise to adopt the closed shop at this time. To-day, we are in the throes of a period of high prices. Europe is making large demands upon us for food and manufactured products, and vast commercial opportunities are now awaiting us. If we are to lower prices, furnish Europe with necessary aid, and take full advantage of our opportunities it is encumbent upon us to produce as much as possible. The closed shop would tend to defeat these ends by hampering industry.

Professor Taussig attributes the loss of leadership of Great Britain in the coal and iron industries to union policies that have put a brake on progress. I would call to your attention the fact that it became evident to England at the outset of

the war that if she was to be able to supply her troops in France with the necessary munitions and supplies to turn the tide of the war and to thus prevent the spread of militarism it would be necessary to abandon the closed shop then existing in all of the vital industries of the nation. We find that after a year of miserable failure in the war due to inadequate production England in 1915 changed to an open shop basis for the period of the war. But we do not by any means need to turn to Europe to find examples of diminished production under the closed shop. We have in our country countless examples of the lessened production due to the restriction placed by the overpowerful unions on their members.

Director General Charles Piez, of the Emergency Fleet Corporation, in reporting on conditions in two unionized shipyards on the Pacific Coast and Atlantic Coast for two years ending January 1920 stated that the two yards on the Pacific Coast advanced wages 70% with an output reduction for the two years of 30%. On the Atlantic Coast the wages advanced 120% with an output reduction of 20%. We can see in the light of this experience that it would be economically disastrous to adopt the closed shop at this time with its attendant reduction in output.

We can further see that the closed shop would be inimical to the best interests of the public in yet another way. Due to the excessive demands of the laborers which would follow the placing of a great monopoly power in the hands of the workers three alternatives under the closed shop would be open to the employer. In the first case the employer may grant the excessive demands of the laborers. In which case due to strong competition or to regulation by a public service commission the employer will fail in business. In this event you, the public will pay.

The second alternative open to the employer is that he might refuse to grant the excessive demands of the laborers. Labor due to its monopoly control would be anxious and eager to test its power, industrial disharmony with the inevitable end of strikes and general tie-ups would follow with the ultimate submission of the employer. This has been the result of the closed shop policy in Australia where there has been a great increase in the number of

strikes in the last few years. Again, you, the public will pay.

A third course open to the employer is to combine with labor, to grant all their demands and for the two to take the increased cost out on the public through increased prices.

Professor Clark, of the University of Colorado, (Pam-26, of the National Association of Manufacturers on page 123), says: "The tendency of the monopoly of labor and of capital is to unite and strike at the consumer."

Professor John R. Hobson, the foremost economist in England to-day, in a speech delivered at San Francisco in December of last year stated that for some time past the tendency has been for the employers and employees of England to unite and strike at the public. There is to-day in the process of formation under the leadership of Colonel P. Newman, M.P. a great middle class formed for the expressed purpose of combating the monopolistic agreements between the employers and employees. There are already 100 branches of the organization. The danger then of this third alternative, of a collusion is not only possible but is iminent. Again, you will pay. We ask our opponents to explain how their plan would meet these alternatives.

Let us again compare the two proposals. We have seen that under the union preferential shop no undue power would be placed in labor so that it would be unable to make any unreasonable demands. Our plan would not restrict output and so would not raise prices or prevent our discharging our obligation to Europe. The unions would not have the power to enforce any restrictive policies for open memberships in the union would prevent any such restrictive measures. Further final resort might be had to non-union labor if the unions should make undue demands. Under our plan the alternatives suggested by me would not arise.

We have thus compared the two plans. We have seen that the closed shop would operate to the disadvantage of the public by creating a dangerous labor monopoly which would not be able to be adequately checked. We have seen that it would be economically disastrous at this time to adopt the closed shop for through restriction in output

it would raise prices and hamper our vital industries. It remains for my colleague to show how the closed shop would enable a class conscious group of workers to enforce political demands by direct economic pressure, and to show that the closed shop would be inimical to the best interests of the laborers both in their individual and collective capacity.

In closing the contentions of the Affirmative thus far can well be summed up by the statement issued by the Industrial Conference which met last January—and of which H. C. Hoover was vice-chairman, to President Wilson: "The public has long been uneasy about the power of great employers; it is now becoming uneasy about the power of great labor organizations. The community must be assured against domination by either."

SECOND AFFIRMATIVE

Kai Jensen, Washington

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In opening the debate for the Affirmative, my colleague pointed out that the open shop has the power to and virtually does destroy the effectiveness of collective bargaining and of the labor union. He pointed out that the Affirmative object to this on the ground that if collective bargaining and labor unions are desirable, and both sides have conceded this, then it is not to the best interests of the public to leave the existence of these institutions to the absolute whim or discretion of any minority as becomes the case under the typical open shop.

He also demonstrated that the abuses of labor unionism which exist today are not likely to occur under the closed shop because they are not inherent to labor unionism and consequently will disappear as the force which calls them into existence is removed and that this is what occurs under the closed shop. Let me make clear what the Affirmative mean by this contention.

We hold that in seeking to determine the character of the organization, or what the closed shop really means, that there is an important distinction which we will do well to

keep in mind. Namely, it is the distinction between an attack on labor unionism as it works out under the open shop and an attack on labor unionism as it works out under the closed shop.

A careful analysis of the previous Negative speaker's stand in this respect reveals the fact that the gentleman has condemned the labor union as such more than he has condemned the closed shop. In spite of this, however, the gentleman has (stated) that he is in favor of labor unionism, thus rendering his stand inconsistent.

The value of unionism itself was dealt with by my colleague. However, we of the Affirmative stand willing to concede that this labor unionism of to-day is not without its faults, that it is by no means an ideal institution in practice. But we do argue that many of the faults of labor unionism in practice is due to the fact that it has been forced to wage a continued warfare for its very existence. Its methods at times have been the methods of a desperate man striking out blindly in self-defense.

In the words of the latest report of the committee on industrial relations "these so-called evils are conditions that are incidental to a situation wherein labor has at times been forced to fight with such weapons as it would command for rights and privileges that in justice should be freely accorded wage earners. So long as labor organizations are forced by employers to fight for the mere right to exist, just so long will these evils at times manifest themselves as symptoms of the worker's desperation. The union fighting for its right to live is sometimes forced to tolerate acts that would not be countenanced if its entity were secure and its energies were not absorbed in fighting for its existence."

Manifestly then it is unfair and unjust to seek out the cases in which labor unions have been put in most desperate straits and then judge their entire movement by the particular reaction taking place under such circumstances. Such, however, becomes the position of the Negative upon condemning the closed shop because of the acts of certain unions under an open shop regime.

Any surmises as to the closed shop built upon such a foundation are obviously unsound for the reason that under

the closed shop those conditions which drew forth the condemned reaction have been removed since the union then no longer must struggle for its very existence. *Organized labor under the closed shop is given a chance to forget its rights and to begin to think of some of its duties.*

Now at this stage of the debate the Negative find themselves in a dilemma. If they concede this analysis of the situation then they concede the closed shop. On the other hand if they deny this analysis then they deny the essential worthiness of the workers of this nation. For, if the closed shop cannot be adopted extensively in industry to-day because of the character of the men who would go to make up that organization then the stand of the Negative amounts to an assertion that the great mass of the citizens of this nation are lacking in the sound elements of character. It means if carried to its logical conclusion, a denial of the institution of democracy on the ground that the sense of the common people is not such as to merit their governing themselves thru chosen representatives.

The Affirmative contend that the hope of the nation lies in the essential worthiness of its wageworkers. To argue otherwise, is to maintain that this nation is rotten at the core!

But! if the workers are essentially a worthy, responsible group of men then what have we to fear by the extensive adoption in industry today of the closed shop?

Ladies and Gentlemen, we have everything to gain and absolutely nothing to lose for it merely means that the wageworkers of to-day, in whom as a group we have confidence, will be given a voice in the labor unions of to-day thru which the closed shop is administered.

With these facts in mind let us look at the closed shop as it actually operates in industry to-day, for the closed shop is not, mark you, an untried and theoretical institution but one which is in actual operation in many places to-day. The logic of the situation has already been laid before you. That is, we have pointed out that the abuses of the labor movement condemned to-day are not likely to occur under the closed shop for the reason that the force which calls them into existence is removed; the unions are made secure as to their entity.

(But before delving into the specific evidence concerning the closed shop as it actually operates in industry to-day. let us briefly summarize the case of the Affirmative up to this point. My colleague pointed out that the open shop has the power to and virtually does destroy the effectiveness of collective bargaining and labor unions. He pointed out that the Affirmative object to this on the ground that if collective bargaining and labor unions are desirable and both sides have conceded this, then it is not to the best interests of the public to leave the existence of these institutions to the absolute whim or discretion of any minority as is the case under the open shop. The Affirmative has also demonstrated that the abuses of labor unions which exist to-day are not likely to occur under the closed shop for the reason that the force which calls them into existence is removed.)

At this point we wish to submit evidence from the four bodies in the United States which have had the best opportunity to investigate actual conditions obtaining in the country at large. Their unanimity in supporting complete organization on the part of the workers is remarkable and has great weight from the fact that they have sought facts first and drawn conclusions afterward.

The Department of Labor in its report to the president for the year 1918 [p. 232] said: "It was feared by employers who opposed labor organization that if such organizations were permitted in their establishments that unreasonable and excessive demands upon the employer would follow. On the other hand the experience of the department indicates that in the past the most disastrous and long continued strikes have occurred in trades and in plants where there was practically no organization."

The fears of employers in such respects would therefore seem to be groundless if actual facts be taken as the basis upon which to pass judgment. Now the Department of Labor during the fiscal year 1918 alone dealt with 1219 industrial disputes involving 13,000,000 of people directly not to mention the great body of the public which is of course always affected to a greater or less extent by every industrial dispute. These figures show the tremendous scope of the Department of Labor and so when it makes a statement

such as I have just quoted, we can see that it has great weight behind it. The weight of actual experience.

The Department also found in its 1917 report that "Whenever employers enter into negotiations with organized workers differences are almost always settled satisfactorily." Further than this we find reiterated in every report since the creation of the Department of Labor that industrial peace is conserved thru established and fairly recognized labor organizations. That this is so the mediation work of the department goes to prove. In the cases in which labor organizations have been recognized by employers mediation upon just terms has been more easily effected than in cases in which employers, though acting collectively themselves, have refused to accord rights of collective action to the wageworkers from whom their employees are drawn." It continues, "The more cordially the principle of labor organizations and the policy of collective bargaining between employers and wageworkers are sustained by public opinion even in opposition to the hostile attitude of what is happily a diminishing number of employers, the more effective for the general good will the mediation work of the department become." Whenever employers concede the closed shop differences are almost always adjusted satisfactorily.

All these statements, may I again point out, are based upon an actual experience which is greater than that of any other body in the United States and so represent judgments made not upon special isolated cases but the general conditions existing in the United States to-day.

Nor is the Department of Labor the only body to find out these facts concerning the closed shop as it actually exists and works to-day. The President's Mediation Board in its report to the president after a long period of intensive investigation in which all relevant sources of information were tapped said in speaking of the causes of industrial unrest, "Broadly speaking, American industry lacks a healthy basis of relationship between management and men. At bottom this is due to the insistence of the employers upon individual dealings with their men. In the majority of instances there is no joint dealing and too many employers

are in active opposition to labor organization." [President's Mediation Board, Department of Labor. Anuual Report, 1918. p. 26.] In its recommendations it goes on to say, "Some form of collective relationship between management and men is indispensable. The recognition of this principle by the government should form an accepted part of the labor policy of the nation." [p. 28]

The report also agrees with that of the Department of Labor concerning the fact that the fears of employers as to conditions under organized plants are groundless. That it tends to promote individual peace and the welfare of all parties concerned.

The Committee on Industrial Relations in the United States is a third body which has spent a considerable time dealing with actual conditions in the United States. Hence its report also is based upon actual facts which lends weight to its statement in its last report that "It is very significant that out of 230 representatives of the interests of employers chosen largely on the recommendations of their own organizations, less than half a dozen have denied the propriety of collective action on the part of employees." [Commission on Industrial Relations. Final Report. p. 64.]

The National War Labor Board is another body which has covered a great amount of ground in dealing with actual conditions. Hence its scope also has been very large and yet the National War Labor Board in announcing its principles not only recognized the yalue of collective bargaining and of labor unions, but also endorsed the closed shop in industry when it said, "This declaration, however, (speaking of the recognizing of labor's status at the time), is not intended in any manner to deny the right nor to discourage the practice of the formation of labor unions or the joining of the same by the workers in said establishments." [Department of Labor. National War Labor Board. Annual Report. 1918. p. 202]

This policy was adopted by the National War Labor Board on the ground that under the closed shop it was more easy to deal with the workers, that disputes were more easily settled, that the standard of efficiency of the workers was higher, the work better, and production greater. Indeed the National War Labor Board found it necessary to create

a "Closed Shop" in all industries in order that it might successfully carry out its great task of securing peace in industrial establishments.

We have but to step across the border to the north and we find the same things true in Canada. The Committee on Industrial Relations for Canada headed by Justice T. G. Mathers and Charles Harrison, M.P., arrived at the conclusion (year 1919) that industrial peace is best conserved thru the closed shop. That workers are more content under such conditions which naturally results in increased production. The committee further went on record as recommending official recognition of that institution by the government.

This then is the testimony of the four bodies in the United States and Canada which have had the best opportunity to investigate conditions and which have covered the greatest amount of ground.

It is a verdict which has been reached after a study of the specific abuses laid before you by the Negative. This is very important for it means that the gentleman of the Negative have sought for and found abuses existing in specific cases and then by means of a process of inductive reasoning have arrived at the conclusion that these represent the general conditions in the United States to-day.

The fallacy of their conclusion lies in the fact that these represent the exceptions rather than the general rule. Thus the Affirmative has avoided the use of specific illustrations for both sides would naturally select illustrations favorable to their own particular contention and then by means of the same process of inductive reasoning would arrive at totally different conclusions.

The Affirmative have therefore employed five large searchlights which have swept the entire field and have not been content to rest upon an irregularity here and there.

This then is the closed shop as it actually operates in industry to-day. Revealed in this light, the light of actual facts, it looms up as an institution meriting the support of public opinion on the ground that it tends to promote the best interests of the public. That this is so we can easily see from the fact that the testimony offered reveals it as an institution tending to promote industrial peace; increased efficiency on the part of the workers resulting in increased

production, better conditions in the community where it is located and co-operation between labor and capital.

SECOND NEGATIVE

Wylie M. Kilpatrick, Stanford

Honorable Judges, Ladies and Gentlemen: Samuel Gompers in an address at the 1917 Buffalo convention of the American Federation of Labor said: "Under the burning heat of necessity civilization is now in a fluid state. This is a time when the impossible is achieved. It is a time when there is no check on the audacity of aspiration. Upon the delegates to the Buffalo convention devolves the duty of proving themselves masters of their opportunities." The delegates to the Buffalo convention indeed have followed the advice of their President. Let us examine the attempt of the unions to prove themselves master of their opportunities by attempting to establish the closed shop.

My colleague has shown the economic danger that will result from a labor monopoly under the closed shop. I will treat of a second phase of that monopoly, the political and prove that the closed shop would enable a class conscious group of workers to secure political aims by direct economic pressure. We wish the Affirmative to distinctly understand that the Negative in no degree is arguing against the lawful exercise by unionists of their political rights; but we do maintain that it would be unwise to grant to labor that degree of economic power that would make it possible for the unions to obtain political ends—not thru the ballot and political machinery, but by direct economic action.

To be concrete, I refer you to the strike last year of the powerful English Triple of railroad, transport, and dock workers working under the closed shop. In the December 1918 parliamentary elections, the English labor candidates were overwhelmingly defeated by the Lloyd George party on the issues of conscription and labor bills. Did the labor group then accept the basic principle of democratic government—that a defeated minority will accept the will

of the nation expressed thru an election? No, the Triple Alliance struck—struck not for higher wages but in an attempt to force political ideas upon a nation which in the election had repudiated those ideas. The British government as a price of peace was forced to compromise with the Alliance. Two weeks ago in the House of Commons, the proposal of the labor group to nationalize the mines was defeated by a vote of 327 to 64. Whereupon, Victor Hartshorn, labor spokesman, issued the following statement: "Within six weeks the nation will be in the throes of a strike, a strike not for wages but for the nationalization of mines."

The attitude and temper of the British unionists is paralled by the American labor men. Three months ago Samuel Gompers was called to testify before the Senate Committee on Interstate Commerce regarding the anti-strike provision of the Cummins bill. Gompers, the leader of the conservative wing of the unions, bluntly told the committee "That if a bill of this character was enacted into law, I should have no more hestancy in participating in a strike than I would now, regardless of what the consequences might be. "In other words the recognized leader of unionism declares that labor will disregard the governmental mandate if that law happens to interfere with the securing of union purposes.

I need not retell the famous story of the passage of the Adamson Eight Hour bill of September 1916. The railroad brotherhoods, then, as the price of not striking and so preventing national disaster, demanded the enactment of the bill. We then witnessed the astonishing spectacle of the American representatives in Washington shaping their actions to meet not the will of their constituents but the dictates of a belligerent minority threatening national disaster unless those demands were granted.

Last October President Wilson told the coal miners: "Your strike would be a grave moral and legal wrong against the government and people of the United States." Let us briefly examine that strike and see how effective are the possible checks that may be used to minimize the danger of a labor monopoly. First, the inditement of the President did not deter the miners. The strike was called.

Secondly, Public opinion was crystallized against the strike, but the miners laughed at public opinion. Thirdly, for the first time in industrial strife the government actively sided against one of the contestants. The Indianapolis injunctions were issued directing the strike to cease. When the union officials called off the strike, the newspapers proclaimed a broken strike. But the body of workers remained out of the mines. The President was then forced to the humiliating extreme of requesting the unions, openly flouting the law, to compromise so that a coal famine would not result.

The placing of this power in the hands of a minority can have but one result. The ability of a group to dictate by pressure must mean that the law will have not only less respect but less force—a weakening of democratic authority. Raymond Robins in a speech at Stanford University a week ago described the weakening of the internal political structure of Great Britain. Robins, himself a radical labor leader, ascribed the weakening to the class conscious group of workers bent upon securing their ends by any means whatsoever. To accede to the Affirmative's demand will result in the duplication in America of Britain's disastrous experience.

The one aim of the closed shop advanced by our opponents to-night is its purpose to further unionism. Admittedly, certain artificial advantages acrue to unions thru the monopoly power of the closed shop. But they are the gains of an artificial monopoly, automatically secured without the necessity of proving the worth or value of unionism. With all the supply of labor in the hands of unions why should they exert themselves to correct weaknesses, improve their service, or check excesses or radicalism? The motive for improvement, the incentive for a better unionism would be eliminated. As Louis D. Brandeis of the Supreme Court has said: "It is desirable for the union itself that it should not include every member of a trade. Absolute power leads to excesses and to weakness; neither our character or our intelligence can long bear the strain of unrestricted power."

Fifteen years ago the United Mine Workers of America, under the sane leadership of John Mitchell, was the most

respected union in the nation. An era of the closed shop set in for most of the anthracite mines. There was no check under the closed shop upon the demands of the union. The radicals secured control, ousted Mitchell, and presented a series of demands on the mine owners which culminated last fall in the coal strike. Today that union stands without a friend in the public, antagonized by the government. It must begin again the slow process of securing public confidence. The Printers Union of New York City long enjoyed public confidence. That union last fall struck, suspending the publication of many national magazines—striking in violation of their contracts and against the orders of their national officers. Today, that union is thoroly discredited, a broken organization. In the Coeur d' Alene and Colorado mines, the Western Federation of Miners for some years possessed the power of the closed shop. The abuse of the power both alienated public support and incurred the action of the law against the union officers. The Federation is a broken down organization, tossed aside even by unionists as an instrument for action. Taking a far sighted view of the union movement we must reject the closed shop because it is inimical to the best interests of unionism.

The Negative recognizes that the rights of the individual can not be paramount to the needs of society—that they are conditioned upon the welfare of the whole. Society is constantly abridging the individual liberty thru legislative statutes by laws regarding health, sanitation, and minimum and hours of law enactments. But these abridgments are made by society thru the government, thru an agency which can fairly represent the will of the nation. The Affirmative proposes to give that governmental function of regulating working conditions to a private irresponsible organization. It wishes to transfer the governmental prerogative into the hands of an organization which in the past has shirked responsibility for its acts.

The exercise of such a function by the union results in abuses that must condemn it. In actual practice union discrimination against many is continued and persistent. First, what amounts to effective disbarment from work results from excessive initiation fees. Bulletin 86 of the U. S.

Labor Bureau shows that out of 87 unions investigated, 34 had initiation fees from $30 to $50; 53 had fees from $50 to $200; while the closed shop unions of plumbers, marble workers, and glass blowers had fees from $200 to $500. Secondly, the limitation of membership by undue restriction of apprentices would prevent many from securing the necessary license to work. The by-laws of the National Plumbers Union provides, "One apprentice in each shop or where there is no established agreement relative to apprentices they shall be entirely abolished." The Iron Molders Union states in its by-laws: "One apprentice to each shop, irrespective of the number of molders, and one to each eight hereafter employed." With four years as an apprentice period, a foundry of 40 men would produce 5 new workers in a 4 year period.

Thirdly, the patriotic American worker would often be deprived of work by the violent policies of many unions. An iron and steel structural worker would be forced to affiliate himself with a union which produced the McNamara Brothers and reelected Frank Ryan after his conviction for dynamiting. I hesitate to refer to the situation in Seattle—your home—but the strike here last year startled the nation. Then the unionists of your city were forced to affiliate themselves with a union which was avowedly I. W. W. in its aims.

Fourth, the union movement includes in its scope the unionization of government employees. The government would then be forced to discriminate among its own citizens before permitting a man to enter the government service. The Boston policemen struck last fall in an attempt to secure that end. Only one answer can be given to such a proposal, the answer given by President Roosevelt in the famous Miller case in which Roosevelt said: "In the employment of men in the government service, I can no more recognize the fact that a man does or does not belong to a union, than I can that he is a Protestant or Catholic, a Jew or Gentile."

Concluding the argument of the Negative, I wish to introduce an important piece of evidence. It is a statement not by a foe of unionism but rather by one of the foremost advocates of the closed shop in America. I refer to

Clarence Darrow, counsel for the American Federation of Labor. In a statement issued the 10th of last month in Chicago, Darrow explained why he supported the closed shop. I quote: "I do not regard the closed shop as the only solution between labor and capital. I fancy there is no solution, but if there is, this (the closed shop) could not be regarded as the solution, but simply as a war measure. I think the closed shop will not benefit the employers financially and probably will not increase productivity. The worker is interested in selling his labor as high as he can, and if labor can be entirely controlled by a union, he is able to dictate the price of what they have to sell. You can readily see that this furnishes no solution but is simply an instrument in the present industrial warfare between labor and capital."

FIRST NEGATIVE REBUTTAL

Ross C. Fisher, Stanford

(A report of this speech could not be obtained.—Ed.)

FIRST AFFIRMATIVE REBUTTAL

Kai Jensen, Washington

The Gentlemen of the Negative have in the debate this evening apparently exercised their legitimate prerogative of changing the issue in this debate from that of the open vs. the closed shop to that of the closed vs. the preferential shop. The advantages of this preferential shop which they advance as a solution of our industrial problems have been dealt with at length by our opponents. But, before we accept this so-called solution of the great problem which we are discussing to-night, let us examine into its nature. They say that union men, all other things being equal, are to be given the preference when applying for jobs. Well and good. But, if this is to be the case, and the Negative assure us that it is, then what pray is to hinder or stop all

men from joining the union, and if they do, what then do we have but the closed shop advocated by the Affirmative? In other words the Negative are proposing a scheme which is to make union membership so attractive that all will join the unions which means that no better, more feasible scheme for the successful inauguration of the closed shop could be proposed. We can but agree absolutely with the Gentlemen that this preferential shop is to provide all the advantages of the closed shop for it merely means the institution of the closed shop in a safe and sane way.

And had the Gentlemen chosen to stop here we might have ended this debate with the Affirmative advocating the closed shop, and the Negative showing us how best to attain that goal. But the second speaker perhaps realizing the inevitable conclusion to which such a stand would lead him saw fit to proceed and thereby render his entire stand inconsistent. For he has assured you that under his plan but a certain per cent will be permitted to join the union in order to quote the Gentleman himself "that open shop conditions may prevail."

And yet as you will all doubtless recall in opening this Negative argument it was stated specifically that the Negative agreed with the Affirmative in condemning the open shop, that they did not believe the open shop to be the solution of the problem. The mere fact that an alternate plan has been suggested is sufficient proof of this as is also the Gentlemen's statement to the effect that the Negative are as sincere in their condemnation of open shop conditions as are the Affirmative. In spite of this, however, the Negative when pressed to the wall and shown how their plan will mean the closed shop of the Affirmative have come back with the reply that their plan is the open shop; that all the men are not to be permitted to join the unions. Thus you can see that the position of the Negative in this debate has become hopelessly inconsistent. They have agreed with the Affirmative in condemning the open shop and yet have advanced a plan which in the last analysis they stoutly maintain is the open shop an institution condemned alike by the Affirmative and the Negative.

But not content with this one grave inconsistency the Negative have in their debate this evening perpetrated

another. Throughout their first speech and a part of their second, they have maintained that the closed shop will mean monopolistic power to which contention we have replied that it merely means the placing of labor and capital on an equality, but waiving this for the moment we would have you recall that if the closed shop is to mean monopolistic power that it means that the unions are to *become too strong.*

Then in the second speech we find the Negative advancing the contention that the closed shop is not to the best interests of the union; that it will mean disintegration for they say that the forcing of members into a union will mean the limiting up of a disinterested membership; a membership which will not have the interests of the union at heart, etc. etc. In other words the closed shop will mean a *weakening of the union's power.*

Thus we see that in one speech the Negative have argued that the closed shop will mean that the unions will become too strong, while the second speaker contended that the closed shop will mean that the unions will become too weak. In view of this we can but suggest to the Gentlemen of the Negative that if they seek an answer to their first speech they have but to hear the second and that if they seek an answer to the second that they have but to recall the first.

But Honorable Judges we have gone further than this and have met the Gentlemen upon their own ground, showing with regards to their first contention that it does not mean the creation of a monopolistic power but rather the placing of labor and capital upon an equality, which is absolutely necessary in order to secure real collective bargaining. The second contention of the Negative, that it means disintegration, is based upon a false premise namely, that the closed shop is to be an overnight affair which is not the case for we merely ask support of Labor's movement for the closed shop which is a gradual and evolutionary thing. Further answer to the proposition may be gained from the Gentleman's own speech in which the preferential shop is suggested namely, the idea of making the union so attractive that men will be led irresistably to join.

Now by way of conclusion permit me to again briefly point out the two grave inconsistencies in the Negative case

this evening. First of all they agreed with the Affirmative in condemning the closed shop and suggested a third alternative. But upon being shown that this was in reality nothing but a fine scheme for attaining the closed shop and really meant the closed shop they recanted and stoutly maintained it to be the open shop which they had already previously condemned, thereby placing themselves in the position of condemning their own stand.

Not content with this we find them devoting half their time to maintaining that the closed shop will mean monopolistic power or the making of the unions too strong while the remainder is devoted to pointing out that the closed shop will mean disintegration or a weakening of the unions.

Thus the entire stand of the Negative this evening has been absolutely inconsistent and has concerned itself with the advancement of arguments to which the best answer has been given by the Negative itself.

I thank you.

SECOND NEGATIVE REBUTTAL

Wylie M. Kilpatrick, Stanford

Honorable Judges, and Friends: The debate tonight is not that of the closed shop versus the open shop. The Affirmative by the question is bound to support the closed shop, but by no skill of argument can our opponents force upon the Negative the burden of defending the open shop. Consistently, they have sought to identify our cause with the open shop. I repeat now that we have admitted entirely the argument of the first Affirmative speaker, namely, that unions are a necessity and we have instead taken issue with the point of the second Affirmative speaker, that the closed shop is essential to unionism. A preferable alternative plan, the union preferential shop has been supported by the Negative. That clash of opinion is the crux of tonight's debate.

The preceding speaker maintained that the preferential shop will lead to the closed shop and become identical with it. For, he argues, the right exists under our plan for any or all men to become union members; hence complete

unionization will be possible and certain. Undoubtedly it is possible, a theoretical possibility, coupled with a practical certainty that a closed shop would not result. The same theoretical possibility exists under the open shop. In that form of shop organization any or all the men may join in the union movement. But our opponents are far from claiming that the open shop results inevitably in the closed shop. The opposition has of course differentiated between the open and closed shops. But the very same argument that they used to prove that the preferential shop is identical with the closed shop can also be applied with equal force to the open shop.

Let us analyze the argument more closely. The Affirmative statement that the preferential shop is, in reality, identical with the closed shop has involved them into the admission that an all inclusive membership in unions, the closed shop, is not necessary. Our plan provides for a strong union but it is far from complete unionization. For the opposition to link the two together forces them to admit that the benefits of the closed shop will be secured by the preferential shop—which is exactly the cardinal point of the Negative position. When the Affirmative ascribes to our plan the virtues of the closed shop, there is but one deduction to draw, namely, that the objects for which the closed shop is advocated may be secured without resort to the closed shop itself.

The opposition has declared that it devolves upon the Negative to prove that the unions would not be a responsible body under the closed shop. The burden of proof is upon you, Gentlemen of the Affirmative, not upon us. Before the closed shop with all its far-reaching changes can be safely inaugurated, the public must be assured that a responsible organization will not abuse its power. The duty of proving the reasonable fear of labor power to be unfounded has been disregarded by the opposition. Their sole answer in their main speeches to our charge that an irresponsible organization would exist has been to pay tribute to the character of the American workingman and to charge that the Negative was assulting the integrity of labor. What the Affirmative means by that statement I do not know nor is it important to answer a eulogy on

the workman. It is vital, tho, for the opposition to answer our definite arguments in which we specified why labor would not be responsible. We ask again how the public would be safeguarded when the unions are an incorporated body, legalized by the Clayton Act of 1914 and removed from the operation of our Anti-Trust laws by the same act?

But a shift has come in the Affirmative argument. Abandoning the claim that the unions are a responsible body, the opposition has tacitly admitted the truth of our charge by proposing a plan of the Anthracite Coal Commission for labor regulation. Disregarding all rules of debating our opponents have introduced a new constructive argument in a rebuttal speech. No hint of their plan was contained in the main speeches. What right have they now to inject an entirely new argument in a speech which can properly contain only refutation or elaboration of previous arguments? The time for you to have advanced that plan was in your main speeches, Gentlemen of the Opposition, and because of your failure to do so then, fair debating requires that the plan be disregarded as extraneous argument.

Admitting the right of the opposition, for the moment, to introduce this argument, let us consider the Affirmative's plan. It purports to have the authority of the Anthracite Coal Strike Commission behind it. Permit me to quote that commission: "The contention that a majority of the employees in any industry by associating themselves in a union acquire authority over those who do not do so is untenable." The source from which the opposition drew their plan is unalterably opposed to the closed shop. The Affirmative then after delivering a eulogy on the workmen tacitly admitted the need for a check by proposing a regulatory plan, a proposal which they had no right to make in a rebuttal, a proposal emenating from a commission which condemns the closed shop.

Our opponents claim the support of four Industrial Commissions reporting in 1918 for the closed shop. But there were no four commissions in existence in 1918. In the last twenty years there has been four notable commissions on industrial relations. I quoted from the Anthracite Com-

mission of 1902 against the closed shop: the commission under Roosevelt was opposed to it: the body reporting to Wilson was non-committal; the industrial conference now sitting in Washington has yet made no report. To what commissions do the Affirmative refer? Evidently to some minor committees whose existence and authority have not been revealed by our opponents.

The Affirmative's answer to our charge that unions restrict output is that we have cited isolated cases. I again quote the Commission on Industrial Relations of 1916: "That the tendency of the workmen is to restrict output of labor is undeniable." Will the Affirmative try to impeach the authority of the commission which based its report on the study not of isolated cases but upon two years investigation of the national situation?

The opposition has sought to show that the closed shop will promote industrial peace. I quote their exact words: "Establish the closed shop to counterbalance the power of the employer and so make a parity of power." Let me remind you of recent history familiar to all in this audience. In 1914 in Europe stood two powers, the Triple Alliance and the Triple Entente, in that parity of power that the Affirmative wishes to establish between labor and capital. Mutually jealous and anxious to assert their rights the two alliances hastened into the World War. Yet the Affirmative wishes us to believe that by duplicating that balance of power for labor and capital peace will be assured. True minor conflicts might be avoided for a time. But like the great war when that nicely adjusted balance is overthrown the resulting strife would be disastrous.

Honorable Judges, the contentions of the Affirmative must be denied. The legitimate objects of the unions will be attained by the preferential shop. Resort to the closed shop is not necessary. Are you willing to incur the risk of the inherent evils of the closed shop when the necessity of the plan is not established? We can not afford to embark upon the course advocated by our opponents for it is inimical to the economic welfare of the country and dangerous to its political authority. On these grounds we ask for a favorable decision.

SECOND AFFIRMATIVE REBUTTAL

Kenneth Collins, Washington

My purpose in closing this debate is to meet the one outstanding objection of the Negative to the closed shop. If I succeed in doing that, the Affirmative case supported as it is by the five great industrial investigating agencies of North America; substantiated as it is by logic and fact, must stand.

What then is the objection of the Negative to the closed shop? Out of a maze of conflicting arguments there stands but two objections to the closed shop: Monopoly on the part of labor; irresponsibility on the part of labor.

We have shown that the alleged monopoly on the part of labor is nonexistent. The closed shop simply raises organized labor to a parity with organized capital; we offer as a check to the present monopolistic bargaining power of capital, the check of organized labor. You know and I know that the organizations of capital preceded the organization of capital; that today you have your closely knit national employers association—you have your local asociated industries; you know that capital's one big aim is the one big union of capital as advocated by the Seattle associated industries; you know that capital's one big aim is capital, and so far as that movement is intended to increase their ability to bargain collectively with labor, there are no existing laws to prevent it; there are no existing laws which cover or can cover the situation; there is only one effective check, the movement of organized labor for the closed shop.

So much for the alleged monopoly of labor which is in fact not a monopoly but an equality, a check upon the ever increasing power of capital in the collective bargain.

But the Gentlemen of the Negative have contended that the closed shop will result in irresponsibility. Ladies and Gentlemen, irresponsibility exists today under the open shop, what we of the public are interested in is industrial peace—if under the closed shop we establish a greater percentage of law and order than exists today, we have an-

swered their argument of irresponsibility; they have held out no hope of responsibility or industrial peace under the present system—they have merely charged that conditions will be worse under the closed shop.

Why? Because they contend that the open shop is a salutary check on the power of labor. My colleague has shown that the closed shop means a mutual check, organized capital upon organized labor, organized labor upon organized capital. The check of the open shop is the check of one party, operated by and for the benefit of that party—capital.

We have presented to you a plan, labor's own plan, for the furtherance of industrial peace. The plan adopted for sixteen years in the anthracite coal mining industry; in the strongest union in the United States under which there has not been a strike for sixteen years. This plan has been adopted in seventy-five per cent of the closed shop industries; a plan which Professor Commons says has been the greatest constructive force in the cause of industrial peace—a plan which is based upon the closed shop and the open union. That is our answer to irresponsibility. We go further, and suggest the plan produced by the President's Industrial Conference now in session at Washington D.C. by which public opinion,- that greatest of all regulating forces will be directed upon the recalcitrant party. A plan which the conference recognizes has no worth except under the closed shop.

The Gentlemen's forlorn hope stand is the question, can you enforce the award if labor refuses to accept it? Apparently not concerned about the frequent refusals of capital to accept an award.

Our answer to how will enforce an award is this: We have provided machinery for settling labor difficulties—machinery whose effectiveness it is recognized depends upon the closed shop.

We have provided supplementary machinery for bringing to bear that greatest of all power, public opinion.

We can only ask—Have the Negative shown any way of lessening industrial strife under existing conditions, and a resume of their case shows that they have spent forty minutes in proving that there can be no responsibility under existing conditions.

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CHAPTER VII

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERNMENT

YALE UNIVERSITY

RESOLVED: *That Congress should take all measures necessary to suppress propaganda having for its purpose the overthrow of the United States Government.*

These are the speeches delivered by the teams representing Yale University in debate with Harvard and Princeton. The Yale Affirmative team debated with Princeton, on March 19, 1920 at Princeton, and the Yale Negative team met the Harvard team the same night at New Haven. Yale won both debates. The rebuttal speeches could not be obtained. The material for this report was secured thru Max Raydner Traurig, Secretary of the Yale University Debating Association, and one of the debaters whose speeches are here reported.

BRIEF

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERMENT

AFFIRMATIVE

INTRODUCTION:

A. There exists in the United States to-day the Communist Party, an active, well-organized, well-directed, well-financed minority which is increasingly successful.
   1. This Party is an actual menace to our Government.
      a. In its ultimate aim of destroying the established government of the United States.
      b. In its immediate program for achieving its objective.

B. There is a fundamental distinction between advocating Bolshevism to be substituted by peaceful means for our present form of government, and organized propaganda inciting men to this change by force and violence.
   1. It is against force and violence that the Affirmative are urging suppressive measures.

C. This propaganda is not being checked at present.
   1. Existing legislation which might handle the situation is not applied.
   2. Certain dangerous phases of the situation are not covered by present legislation.

D. It is the duty of Congress to pass enforcing measures applying existing general laws and also to adopt whatever new legislation is necessary.

I. It is the organized propaganda of the Communist Party which has brought into existence and is increasing the acute danger to our governmental institutions that have been mentioned.

A. The organization of this Party in Chicago in 1919 brought all the radical elements, I. W. W.'s, syndicalists, anarchists, nihilists, etc., into one united body.

B. The Official Manifesto and Program of the Party declares the intention of this body to conquer and destroy the power of the state by force and violence.

C. In the immediate program for achieving this purpose, there are outlined four methods of attack.

1. The stimulation and exploitation of industrial unrest.
   a. Some of our industrial strikes of the last few months were due to the clever propaganda of these Communist leaders.
   b. The Party plans to exploit the industrial strike and turn it into political mass action to overthrow the entire government.
      (1) This was partly accomplished in the recent Seattle strike.

2. Agitation among the negroes of the country.
   a. Racial strife is fomented with the idea of developing social hatred into political revolution.

3. Terrorization of public officials.
   a. Such outrages as the recent attacks on Attorney-General Palmer, Senator Hardwick, and Ole Hanson are an essential part of this party program.

4. Exploitation of the great mass of foreigners in the cities of our country.
   a. There is no tool which gives more promise than this great, inert, ignorant foreign population, of our cities, with no part in American life because of inability to speak and read English.

D. The problem is rendered more difficult by the powerful support which the Party receives from Russia.

II. This propaganda can not be permitted to continue because it has not only pernicious aims, but immediately pernicious results.

A. Those who lack faith in democracy are spreading the contagion of the idea that grievances can be redressed only by overthrow of government.

B. The extreme statements of radicals produce fierce reaction in conservatives, and as the breach widens, mutual suspicion grows.

1. As a result, considered opinion is impossible.

III. Governmental measures can suppress this propaganda.

A. Bad ideas have been suppressed in the past.

1. Our own Civil War testifies to the suppression of two bad ideas—by force.

B. In this case it is proposed to suppress not opinions nor ideas but merely a method of propagating opinion.

C. Public opinion will support measures to suppress this propaganda.

1. The American people have already approved the principle of suppression of certain forms of propaganda, under existing laws.

IV. Such measures are entirely in accord with the principles on which the Constitution is based, and constitute a legitimate defence of the State against attack.

A. Any State has two functions.

1. It must erect as good a system of government as possible and protect that government from any attacks made upon it.

2. It must contain within itself every possible means for its alteration, growth and development.

B. The program of the Affirmative would accomplish both these functions.

1. It is only taking a logical step in self-defense by stamping out propaganda inciting to violent overthrow of our institutions.
2. It does not interfere with the possibility of national and governmental development thru the expression of new ideas.
   a. The Constitution of the United States has made ample provision for amendment and alteration.

C. Such a program does not abrogate freedom of speech, it merely recognizes the distinction between liberty and license.

Negative

The Negative offer, a policy of neutralization in place of the Affirmative plan of suppression, for

I. They believe in the principle that every idea should have an opportunity for expression.
   A. Then, if it is bad, it can be overcome and neutralized in the competition of ideas in the open market.
   B. This principle has always been the basis of liberal government everywhere.
   C. Our own government has always been based on it.
      1. Our government has continually proved successful and has attained a plan of pre-eminence among the nations.
      2. We have been faced with such propaganda as is being disseminated to-day in many forms before and over a long period of time.
         a. At the time of the Lawrence textile strike, the membership of the I. W. W. increased from 6,000 to 100,000 in a year.
         b. By 1917 membership had again decreased to 7,000.
         c. Anarchistic propaganda has been preached freely in this country for seventy years.
   D. European countries have attempted to suppress such propaganda in the past.

1. As a result anarchism, syndicalism and communism have spread much faster in Europe than in the United States.

II. There is no danger at present of a revolution in this country.
   A. The crux of the danger has been met and passed.
      1. At the time the armistice was signed, our industries had to be readjusted to peace pursuits and much hardship resulted.
         a. Thousands were thrown out of work.
         b. Prices were advanced without limit.
   B. The situation has been much relieved since then.
   C. Industrial unrest is subsiding.
      1. Industrial unrest is the natural accompaniment of a transition period when prices advance more rapidly than wages.
      2. Wages have now been increased generally and the Government has successfully prevented prices from continuing to advance at such a fearful rate.

III. If there were danger of a revolution now, for the government to adopt the Affirmative plan would be national suicide.
   A. Existing legislation defines and provides punishment for any form of direct incitement to violence.
   B. What the Affirmative are urging is laws for the punishing of indirect incitement to violence, i. e., the holding of unfavorable opinions toward the government.
   C. Suppression of opinion invariably defeats its own purpose.
      1. Ideas can be met only by ideas and defeated by their own intrinsic weakness—oppression invariably strengthens them.
   D. Suppression of opinion is dangerous and inimicable to our continued existence as a nation for several reasons.
      1. Men punished for their opinions are considered martyrs to a cause.
         a. Martyrs create sympathy.

2. Suppression of opinion arouses hatred toward the government.
3. It lends credence to the claims of the agitator that the government is autocratic.
4. It drives radical propaganda under the surface where the light of reason cannot reach it.
   a. The logical outcome will be a federal spy system.
   b. All the history, traditions and ideals of the American people are against any such system.

IV. There is danger that if laws are enacted as the Affirmative suggest, they will be used to cover offenses for which they were never intended, and so become a weapon of terrorization.
   A. Freedom to criticize the government in any way will be exercised only at the constant peril of indictment.
   B. The history of such laws in other lands shows that, under the jurisdiction of those who administer them, they are invariably stretched to cover cases for which they were never intended.
   C. The protection of jury trial is no relief in cases of this sort.
      1. It was designed for the defense of the majority of people against tyranny, not for the defense of a minority against a majority.
   D. Almost any opinion can be twisted by a prosecutor into a dangerous meaning
      1. That is why the Fathers of our country insisted on absolute freedom of press and of speech.

V. The passage of such laws in the United States will breed suspicion and discontent.
   A. Labor will fear that they will be used to prevent strikes.
   B. People generally will suspect such legislation.
      1. They know it is against the spirit and letter of the Constitution.
   C. Its passage would be due to a blind fear of radicalism and revolution, rather than to the dictates of reason and common sense.

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERNMENT

YALE UNIVERSITY

AFFIRMATIVE SPEECHES IN DEBATE AGAINST PRINCETON UNIVERSITY

FIRST AFFIRMATIVE

Edwin Minis, Jr., Yale

In the very beginning the Affirmative wishes to outline the broad principles on which it will base its argument:

1. That there exists within our borders today the Communist Party, an active, well-organized, well-directed, well-financed minority, which is an integral part of an increasingly successful world-wide movement.

2. That this party is an actual menace to our government, both in its ultimate aim of destroying the established government of the United States and also in its immediate program by which it plans to achieve this objective.

3. That there is a fundamental distinction between advocating Bolshevism as a form to be substituted by peaceful means for our form of government—between that I say, and well-organized propaganda which incites men to make this change by force and violence. It is against the second of these and not against the first that we of the Affirmative are urging suppressive measures. For we desire it to be understood in the beginning that we join heartily with the gentlemen of the Negative in advocating "freedom of speech".

4. That it is this organized propaganda, which has brought into existence, has increased, and is still increasing this acute danger of which we have spoken.

5. That this propaganda is not being checked both from the fact that present legislation which might handle the situation, is not being applied, and also from the fact that certain dangerous phases of this new situation are not covered by present legislation.

6. That, therefore, it is the duty of Congress as the Legislative branch of the government to pass enforcing measures applying the general laws to the particular situation, and also to adopt whatever new measures the best trained legal experts of the country declare to be necessary.

7. That in so doing Congress will remove the danger without interfering with the normal growth and development of our national institutions.

Last September there was organized in Chicago the Communist Party. At the convention held at that time there was drawn up a broad, comprehensive program on which all of the radical elements could unite. So that as a result we find all of the dangerous elements, I. W. W.'s, syndicalists, anarchists, nihilists, etc., which were formerly disunited, now united and presenting a solid front to the opposition.

No better instance of the purpose of this united group can be found than the opening sentence of their Official Manifesto and Program, which was drawn up at the time and which states that the Communist Party must always keep in the foreground its appeal (or propaganda) for the overthrow of the existing form of government and the substitution of a Communist Commonwealth. It announces its intention of conquering, not capturing, and destroying the power of the state by force and violence. Such an announcement constitutes, it seems to me, an attack on the essential fundamentals of American democracy.

If we stop now to consider the immediate program by which this insidious minority plans to overthrow the realized ideal of the majority, we find four outstanding paths of attack:

1. By the stimulation and exploitation of industrial unrest.

2. By agitation among the negroes of the country.

3. By terrorization of public officials.

4. By exploitation of the great mass of foreign population of the cities of our country.

The leaders of this party, who are essentially revolutionary opportunists and not philosophical dreamers, realize that one of their most fruitful fields of campaign is among the laborers of this country, who are becoming more and more disgruntled with their employers. These skillful agitators are able to play upon the existing prejudices and biases of the laboring classes, and have been successful to a large degree in fomenting the industrial strikes, with which we have lately been so cursed. We have, for instance the statement of General Wood, that the trouble at Gary last fall was the result of the clever propaganda of these Communist leaders.

If the danger stopped here we might, perhaps, not be justified in adopting suppressive measures, but, Gentlemen, this is only the beginning. For this party plans to exploit the industrial strike and develop it into a political mass action, which will overthrow the entire government of the country. This is the theory as incorporated in the Manifesto, and, if we will recall the incidents of the Seattle strike, we shall see carried to an almost successful conclusion, the program of developing an industrial strike into a political mass action, aiming at the crippling of the life and government of a city. The plan was thwarted, but not because of any federal action, which, on the contrary, allows the fomenters of this disgrace, to continue unrestricted, their open propaganda for another attempt at forcible overthrow under more favorable circumstances. In fact the most active organizer was recently received at the White House as a representative of Labor.

The same tactics are being pursued among the negroes —a field where it takes but a small spark to cause the smouldering embers to break into flames of race warfare. But here again the social aspect of the problem is only an initial step, for the Communist propagandists plan to develop the social hatred into a political revolution.

We are all too familiar with the numerous bank-plots to justify an emuneration of instances. We are too much inclined to view each of them as an isolated, disconnected

event. But if we stop to consider that such outrages as the attacks on the Attorney-General, Senator Hardwick, and Ole Hanson, are an essential part of this well-organized, well-directed party program, we will grasp a little more clearly their true significance.

There is no tool which gives such promise to the Communist Craftsmen as the great, ignorant, inert, foreign population of our cities. These people live in America, but they have no part in American life from the fact that they can neither speak nor read English. Cut off from the best newspaper and magazines, they afford a fertile field for the glittering, seductive half-truths, which are made even more plausible by the fact that they are disseminated by paid propagandists, who have actually been in Russia, and are thereby able to draw a background of such realistic local color as to make any counter propaganda seem weak and unconvincing.

This is one aspect of the problem, and, if we stop to consider that this great population is centered in our industrial centers and pause for a moment to consider how by gaining control of Moscow and Petrograd, the Bolsheviks were able to bring the entire Russian nation to its feet, we see another disconcerting phase. Suppose, say, that the agitators could so wield this inert tool as to be able to gain control of essential industries in Boston, Chicago, Philadelphia and New York. We would then have a situation which would certainly put our country in a very critical emergency, temporarily at least.

If we can turn our eyes for a moment to the little village of Centralia, Washington, we can see the deleterious effects of radical propaganda on an ignorant foreign population. 50,000 American soldiers, who have escaped the bullets of the Huns are returning to their homes with the American flag at their head. But suddenly five of the members drop dead, killed by the bullets of ignorant foreigners, who have been taught to hate the American government and any of its symbols.

This, then completes the activities of the party within our own borders. Each of the fields of campaign may seem in itself of trivial importance, but when we consider that they are all manifestations of a united, well-organized pro-

gram, which is daily getting stronger just in proportion as opposition is lacking, we begin to grasp their true meaning.

The domestc problem we now grasp, but, Gentlemen, this problem is rendered ten-fold more dangerous by the fact that this minority in America is backed by an increasingly powerful minority in Russia, which can supply an indefinite amount of gold, practical suggestions and clever, ardent propagandists. There is direct communication between the Communist Party in New York and Petrograd. From all evidence it seems that the Communist Party in Russia is daily becoming more powerful, and taking the next step, we see that this advanced guard in America becomes powerful in exactly the same ratio as its parent stock in Europe. So that today we are suffering an attack from a foreign enemy just as truly as we did in 1917 and 1918. The one difference is this—that instead of submarines and Big Berthas, this enemy is using a weapon just as effective—namely its PROPAGANDA.

SECOND AFFIRMATIVE

Henry Robinson Luce, Yale

We of the Affirmative admit that modern society is beset by staggering evils, we admit that a large part of society has grievances against the rest of society. On the other hand our case to-night is based upon the belief that our present problems can find solution in and through a democratic form of government, and only in and through a democratic form of government. The most of the present unrest lies in the fact that there are alive to-day a few vociferous people who do not share this faith in democracy. They believe that the solution of our present problems necessitates the *over-throw* of our government. Propaganda to this effect may not, nay, will not succeed in its ultimate aims. But the propaganda cannot be suffered to take its present course because it has not only pernicious aims, but immediately pernicious results. In the first place, those who lack faith in democracy are spreading the contagion of the idea that a man who has a grievance can

get redress only by overthrow. Similarly in the second place the extreme statements of radicals produce only fierce reaction in conservatives, and as the breach widens, mutual suspicion grows. Liberals believe all conservatives are despotic nabobs: conservatives believe all radicals are reds. The result is that considered opinion is impossible. Men and parties in the United States have disagreed before. Bryan and six million followers believed with all their hearts that salvation came only with silver. But their cry was not "Silver or Overthrow". Suppression of the present vicious propaganda will restore to us the psychological attitude of mind, so that we can sensibly discuss, and by discussion progress.

The Affirmative further contends that governmental measures can suppress this propaganda. The facts of history will not bear out the oft repeated "You cannot kill an idea except by a better idea." For bad ideas have been suppressed in the past. Our own civil war testifies to the suppression of two great ideas—by force. And what means the tragedy of a world war, and the graves of those who return not, except that the idea of Prussian militarism, if not demolished, has at least received its death blow. But even good ideas have been crushed, and by the worst of means. For four centuries Protestantism has not raised a cry in Spain. And in Germany the very ideas of liberalism which we prize so highly, in spite of apparent progress, would never, except for the recent cataclysm, have been more than tolerated theories. But, again, the Affirmative is the more convinced that in the case under consideration, governmental measures will be able to suppress because we propose to suppress not opinion, not ideas, but merely a method of propagating opinion. There will be no objection to the opinion, to ideas of Karl Marx or Mr. St John, or even of Mr. Haywood, (had he held any opinions). We believe confidently that the intelligence of America can cope with whatever error may find its way hither. We ask of the government merely that it crush the violent methods of propagation whereby the peace and prosperity of the country are insidiously jeopardized. And, after all we are not so much suppressing the expressing of

opinion as we are fighting a cheap charlatanism which plays upon the ignorance of the "great American people". The government does not have to be tyrannical or totally paternalistic in order to see that honest but simple citizens are not betrayed into destruction by such things as witchcraft, lottery companies, swindlers of all kinds. Liberal governments have suppressed swindlers and have escaped tyranny. And, as we have said, we do not propose to check honest opinion, but merely the swindling in ideas whereby the people are seduced into the support of men and measures which ultimately will destroy them.

Finally, and most emphatically, the Affirmative is convinced that governmental measures can succeed in suppressing propaganda because public opinion will be behind them; which in turn insures not only the success of the measures but also the maintenance of vitally popular government. Why do we believe that public opinion is behind our suggestion? Says President Lowell, the only adequate test of public opinion is the measure of resistance to promulgated laws. We know that public opinion supports our fundamental constitution and our penal code because there is no appreciable outcry against either. Now the penal code in two places condemns the kind of people we are aiming at to fine and imprisonment. The principle of suppression is clearly contained in the Nationalization Oath, and it reappears in statutes in nearly every state. (Cited). But those specific passages are not adequate to deal with the augmented seriousness of the present crisis. The American people have already approved the principle of suppression of certain forms of propaganda. Now, all that we ask, and all that Mr. Palmer asks, is more comprehensive, more concrete legislation, based on an already recognized principle, so that the principle may more easily be put into execution. We do not ask for an extension of principle, much less do we ask Americans to invoke new principles. We ask merely for an extension of the means whereby the principle may be applied. Therefore the very reason that those of us who have at heart the safety of American institutions propose to guarantee their safety by adaptation of principles recognized in the law of the land

gives us complete assurance that the great multitude of those who love America first will support the government in the measures proposed.

THIRD AFFIRMATIVE

Walter Millis, Yale

In general, the Affirmative has pointed out that there exists in this country at present a certain danger of a very special and restricted sort,—the danger of an attack by a small minority, well-organized and working upon the excitement and unrest brought about by unusual conditions, against the peace and security of the large and well-disposed majority of this people. We have shown that we have at present upon the statute books laws fully capable of meeting this danger at every point except in one. The most efficient tool of this hostile minority is that of propaganda, inflammatory propaganda advocating the overthrow which means the violent alteration of our government. We have shown that the proposed legislation, will as far as it is possible to predict, eradicate the propaganda, and thus merely complete our system of legal protection against attacks of the sort which we face to-day.

If then, a danger to the State is recognized, and an efficient means of counteracting it is at hand, there can be only one argument against adopting that means, the argument that in so doing we are laying ourselves open to a greater danger of one sort or another. The Gentlemen of the Negative have said that legislation such as we propose should not be enacted because it is opposed to the principles upon which our Constitution is based, and hence would involve us in worse evils than those from which it might free us. I wish to show you that, rather than being opposed to those principles, it is entirely in accord with them, and constitutes, not a danger to the State, but a legitimate defence of the State against insidious attack by a violent minority.

Any state has two clear functions which it must perform. In the first place it must erect as good a system of

government as it is capable of doing, and it must protect that government from any attacks which may be made upon it, for very clearly the happiness and well-being of the majority of its citizens are bound up in the orderly conduct of government and the assurance that the guarantees which a government gives to its citizens shall be supported. But in the second place, it must contain within itself every possible means for its alteration, growth and development. No system of government can be devised of which we may say that it is perfect, and no such system which does not allow for the widest possibility of improvement and change in accordance with any new conditions which may arise, can be acceptable to us. This is the test which we must apply to any measure devised for the protection of our present government. The lives and fortunes of so many of us depend absolutely upon the maintenance of the existing order, so that any measure upholding that order can be considered as justifiable on the face of it, so long as it does not interfere with that other and more important function of the State, that of providing for change and growth, the function which John Stuart Mill has so forcibly insisted on.

An examination of the program of the Affirmative shows that under it both of these functions would be accomplished. We are only taking a logical step in self-defence when we stamp out propaganda which incites to the violent overthrow of our institutions. My colleagues have already pointed out what loss has resulted from such propaganda, and how a great future loss may be expected to result from it if we do not adopt reasonable measures of defence, such as are here proposed. But on the other hand, the program of the Affirmative does not in any way interfere with that possibility for national and governmental development through the expression of new ideas. We are advocating the suppression of propaganda having for its purpose the overthrow of our government, that is, for the change of our government by other than legal means. Now, if this were Russia in the days before the revolution, the passage of a program such as that would render impossible the expression of any ideas tending toward an alteration of the government, because the

Russian Imperial Government did not have any provision for its own alteration, except by the will of the Czar. In the Constitution of the United States, however, there is of course, ample provision for amendment and alteration in accordance with new ideas that may be expressed. If a man advocates that a Constitutional Amendment be adopted making the widest possible changes in our present system, he is certainly not advocating the overthrow of the Constitution; he is merely using the Constitution in the way that the framers of that document intended that it should be used. But if he puts it into the heads of ignorant and already inflamed people that they can best serve their own and the national interest by arming themselves and starting out to force their own particular system of political theories upon the rest of the nation, then indeed he is advocating the overthrow of our government, and he would be liable under such a program as we propose. But in what way is this depriving us of the possible good in new ideas? In what way is it making all progress impossible? It is impossible for me to conceive of any idea tending toward the alteration of our government either wise or unwise, which could not be expressed as fully and as forcibly after the passage of such a program as before it. With such a program in force a man would still be perfectly free to advocate Socialism, Communism, even Anarchy as long as he would be willing to wait for the adoption of his scheme until the majority of the people of the country had expressed, by means of the ample channels already provided in our constitution, that they wished to try it.

And so, such a program as we propose is not abrogating freedom of speech; it is merely rendering license of speech illegal; it is merely drawing that distinction which is fundamental in the consideratoin of any sort of freedom, —the distinction between liberty and license. We say that every person in this country is free, but that does not mean that we are to live in a state of anarchy. We have already recognized that the liberty of speech and expression must be circumscribed in the same way that the liberty of action is circumscribed. We have laws against libel,

we have laws against the circulation of obscene literature, and finally we already have laws against the incitement to rebellion, none of which differ in any fundamental respect from laws such as we are urging. All these provisions have been upon our statute books for a long time, and no one has yet challenged them seriously on the grounds that they interfere with the Constitutional sanction of freedom of speech. That sanction was written into our organic law for one purpose,—in order to render it impossible to stifle any ideas that might hold, however improbably, the germs of improvement and advance. And as long as we are careful to maintain that condition, we have the full right to protect ourselves by the restriction of propaganda that constitutes a national danger.

Thus, Ladies and Gentlemen, we are not by the adoption of this resolution abrogating Constitutional rights or destroying our free institutions, on the contrary, we are taking the best means in our power to protect and defend those institutions against a certain novel and insidious attack. We are facing the immediate danger of loss of life and property by many of our citizens because of this particular sort of propaganda. We are facing the ultimate possibility, distant at present but nevertheless to be reckoned upon, of the dictatorship of the minority. Under such a dictatorship where would our constitutional rights be? How much freedom of speech, or freedom of any sort for that matter is there in Russia today? The answer is obvious, and it is an answer that points with perfect clearness to the necessity of adopting new common-sense measures to protect us against any such contingencies as those which have come upon Russia. Ladies and Gentlemen, we are not here advocating the Prussian suppression of all ideas and thoughts. We are merely calling for the extension of a principle which as I have already indicated has been made use of in many of our statutes to meet a new situation that has arisen before us. We are demanding of Congress, not that it should suppress any one of our great liberties, but that it should enable the government to perform that fundamental duty of any government, to protect itself against a violent and perhaps bloody attack from

an irresponsible minority, and in so doing to protect the lives and the well-being of the great majority of our people which are absolutely dependent upon the orderly conduct of government.

Negative Speeches in Debate against Harvard University

FIRST NEGATIVE

Max Raydner Traurig, Yale

Mr. Chairman, Ladies and Gentlemen: We of the Negative understand by "propaganda having for its purpose the overthrow of the government", the publication or expression of ideas or opinions which advocate the overthrow of the government and the attempt to disseminate such ideas through literature, platform or any other means available. We wish to make it clear at the outset that we are just as much opposed to the ideas expressed in such propaganda as are our worthy opponents; we feel very strongly with them that the red gospel of overthrow has within it possibilities of danger and should be eliminated as speedily as possible. But we differ with them in method in that we propose a policy of neutralization rather than one of suppression. We propose as a definite program with which to cope with the situation the principle of giving an opportunity for every idea to be expressed, in the faith that if it is bad it will be overcome and neutralized in the competition of ideas in the open market.

This principle has been the basis of all liberal government throughout eternity. Our own Government was founded upon the theory that it is the servant of the people and that the President and Congress have been elected to obey the rule of the people. In order that this rule may be the most intelligent possible we have always insisted upon the opportunity for every doctrine to obtain a hearing for itself, and if it is found satisfactory it is adopted, if it is found to be unsound it is rejected. No idea has ever been so absurd, no plan so preposterous that it has been considered necessary to refuse it a hearing. It is contended that the doctrines involved in the present prop-

aganda are different from any which we have hitherto faced and that the procedure should be different since they are of foreign origin and are receiving foreign support. We have always abided by this principle even in the case of foreign plans; America has been the melting pot not only of the peoples of the world but also of their ideas, their projects, etc., adopting the good and eliminating the bad in open competition. As a result our Government has become the resultant of all the forces that have tended to act upon it, radical as well as conservative, revolutionary as well as reactionary, and in maintaining this principle we have continually proved successful and have finally attained a position of preeminence among nations.

Gentlemen; it has been stated by the worthy gentlemen of the opposition that we are faced with a definite, concrete problem which demands immediate and drastic solution. Let us see exactly what the problem before us is. It is suggested that such propaganda as faces us intends to overthrow our entire economic order and substitute an untried system in its place. We have been faced with Syndicalism and I. W. W.ism before and Syndicalism is the basis of the Bolshevist economic power; we have faced it in a more sinister and in a more serious aspect. At the time of the Lawrence textile strike the enrollment of the I. W. W. organization increased within a year from 6,000 to 10,000 members. Fear spread throughout the land that the movement would gain such strength that it would attempt to initiate its doctrines, the very doctrines which we so dread and fear to-day. One of the well known syndicalist writers prophesied that the revolution would take place before the end of 1912. Demands and petitions were sent in hysteria to Congress, even as now, asking for legislation to repress the dissemination of the propaganda. We permitted the doctrines to be distributed, we allowed the ideas to be circulated freely. What resulted? By 1917 the numbers had decreased to some 7,000 men throughout the country, an organization which is pathetically weak numerically and which has failed to attach to itself a considerable body of men representative of any section of American labor. This foreign belief was inconsistent with our ideals and of necessity failed to gain success.

Again, we are warned that we are faced with an organization which contemplates violence, forceful overthrow. But we have been facing anarchistic propaganda for seventy years, anarchy whose very basis is the overthrow of government. We have permitted the wildest utterances to be delivered from platforms. Traces of anarchist doctrines appear as far back as the fifties when they were introduced from France. From that time to this we suffered the Goldmans and the Berkmans to roam from one portion of the country to the other, spreading their propaganda to whomever would accept it. What have they accomplished? What have they to offer as a reward for their seventy years of effort? Their work has been in vain; their ideas were false and consequently failed to attain success.

On the other hand the nations of Europe all tried the same methods as the gentlemen of the opposition propose; legislation was passed; repression was attempted. What was the consequence? By 1913 communism, syndicalism, and anarchism had spread until they had assumed alarming proportions in Russia, France, England and Italy.

Attempts are made to present the extreme danger which confronts us. Let us examine the problem and see just what the situation is. We do not believe that there is any danger of a revolution in this country; we do not believe that there is a possibility of the overthrow of our Government by violence. The crux of the danger has been met and has been passed. A year ago there was a real existing danger. The armistice had just been signed and we were attempting to readjust our industries from war time to peace pursuits. Thousands and thousands of laborers were thrown out of employment during the process. Prices were advancing seemingly without limit. The lot of the unemployed was one of misery and hardship. Many of them, driven to desperation, resorted to bomb-throwing and other forms of violence in the hope of finding a way out of their afflictions. But with the successful return of the various industries to their normal pursuits, with the consequent hiring of every available man in order to catch up with production, this intense suffering has been removed and with its removal the field in which propaganda may work has become very much limited in scope. If one

should examine the newspapers of the last few months in an endeavor to obtain evidence of similar outrages he would search in vain.

In the same way the industrial unrest which existed last summer and last fall has been greatly mitigated. Such unrest has always been the accompaniment of a transition period in which rising prices advance much more rapidly than wages. Our entire industrial history has been filled with such periods of strife in which the trade unions have gained tremendous power and have brought the industrial organization of the country to a standstill. It is not surprising, therefore, in view of the astonishing increase of the cost of living, with the wages trailing far behind, that we had such unrest as did exist last summer. But with the increase in wages, obtained partly through strikes and partly by voluntary effort on the part of the employers, and with the successful effort of the Government to prevent prices from advancing at such a fearful rate, the cause for such unrest has been greatly lessened, and the Coal and Steel strikes are events of past history. With the removal of this unrest the field for propaganda finds itself very much limited indeed.

Shall we now abandon the principle which we have adhered to thus far? Shall we, now that we are beginning to see the light of day, now that we are beginning to solve the problem most satisfactorily, abandon the means which have enabled us to so reduce the danger? If we do we shall drive the propaganda underground where it will increase and burst forth with greater vigor than before. But if we continue to pursue our program, the American people, realizing the evils of anarchy and Bolshevism and the evils of the red gospel of overthrow, will bring about the greatest condemnation of the propaganda with the least attending injury.

SECOND AFFIRMATIVE

Daniel Rochford, Yale

Ladies and Gentlemen: We have been asked to believe that our government is in immediate danger of being over-

thrown by a fierce and bloody social revolution. The gentlemen of the opposition have cited the late "bomb plots" the various strikes and riots that have occurred since the close of the war substantiate their contention.

But we know, as my colleague has recalled for us, that there are certain laws of social psychology which make the non-occurrence of some disorders and social unrest after a period of such intense emotional excitement as the great war, unnatural. We know that this post-effect of such a period of emotional tensity is temporary and must disappear with improvement in post-war conditions.

The instances of disorder which loom so large before our opponents' visions are all of more or less antiquity. Nothing of any important or dangerous sort has taken place within the past few months. The clouds are already clearing rapidly. Once the readjustment of war to peace-time, once the resulting unemployment of the transition period, once the re-establishment of the late armies in civilian life, once the plans for financial rehabilitation of the country; once these and other causes of present and recent unrest have been concluded the symptoms of social unrest must also disappear.

The truth of this is clear when we consider the after-effects of every great war ever waged. Surely even the most pessimistic of us can not seriously misinterpret perfectly normal reactions for some deep-laid plot of some purple sinner in some foreign land to overthrow our government.

There is then no justification in present condition for any such radical departure from the proved method of government in this country as the plan of the Affirmative anticipates.

There is no danger of any immediate attempt at the over-throwal of our government by force. This is evident. But *if there were,* then, Ladies and Gentlemen, the plan proposed by the Affirmative this evening is nothing short of suicide!

Let us examine their purpose. Present laws deal with all direct incitation to violence and disorder. What they would suppress is indirect incitation. And what is indirect incitation?

Section 6 of our national penal code says, "If two or more persons conspire to overthrow, put down. or to destroy by force the Government of the United States, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States they shall be punished....etc." Here we have direct incitation defined. Here we have a comprehensive law capable of operation against all radicals really dangerous to our national well-being. In a decision in the Circuit Court of Appeals in the State of Washington in the case of Wells. vs United States, four men were indicted for conspiracy to hinder Federal statutes under this section. And in giving the decision the court said in part that it was, "Not necessary to show that force was actually employed, but only that there was a conspiracy entered into that contemplated the employment of force as a means to the accomplishment of a common purpose to oppose the execution of a law of the United States."

Thus all cases where more than one man conspires for the overthrowal of our government are amply provided for under section 6. and section 4 of the penal code provides for the one-man cases. It says, "Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid and comfort thereto shall be imprisoned etc." This is sufficient to punish the man who simply says, "Resist the law by force."

In these two statutes we have direct incitement to violence defined and punishment provided. It is evident that if a man's attitude of hatred toward the government never grew to the point where it would come under these statutes it would be nothing to worry over. If an attitude of unfavorableness to our government grows to dangerous practicalness it is punished. If it remains merely an attitude it is harmless and should not be punished. Yet the Affirmative are advocating new laws to punish this latter sort of thing, the holding of a more or less unfavorable attitude toward our government. And punishing men for free thinking means national destruction.

The Affirmative have told us that there is a highly organized force in Russia which is directing propaganda in this

country; which is "telling those in America how to bring about a revolution". Let us hear direct from that source. I quote from Lenine's letter to the American Workmen of last fall published in the House Resolutions number 438, page 105.

"I do not expect the revolution to come as soon in your country as it came in Russia, because the conditions in Russia were especially favorable to us in view of the greater amount of oppression that there was from autocracy."

From the mouth of Lenine himself we have it, *oppression breeds Bolshevists!*

The policy of suppression advanced for our consideration to-night defeats the very ends it ostensibly seeks to accomplish. Ideas must be met with ideas and defeated by their own intrinsic weaknesses. Oppression must not only fail of killing them but will inevitably further strengthen them.

Suppression is dangerous and inimicable to our continued existence as a nation for several reasons.

The unavoidable concomitant of suppression of a political nature is always the creation of martyrs. Recall the wide-spread national agitations, strikes, and social disturbances in behalf of Tom Mooney. Before he was imprisoned he was a nonentity as far as causing trouble was concerned. But hallowed by the guise of martyr he was armed beyond the wildest dreams of his followers and at once became a national figure of great power. Martyrs create sympathy. Such is the law of human nature. The passage of this measure and the resultant crop of new "martyrs" which would of necessity result from its operation alone constitute sufficient reason for its condemnation as a means of doing away with radical propaganda. Yet we have been asked to adopt this method in allaying the "red menace".

Not only does suppression create martyrs thereby bringing active sympathy but it also arouses hatred toward the government. Consider the activities of the Lusk committee in New York last fall. In one of their raids they arrested several hundred men at some meeting, many of the arrests were violent. These men were detained for from a few to forty-eight hours and after gruelling examinations only a mere handful were found suspicious enough to warrant further examination! 37 out of about 700! By such high-handed methods, which are unavoidable in administering a policy

of repression, open hostility toward the Lusk committee and toward the government of New York State has resulted among a considerable portion of the population of the city of New York. Yet this is the only "solution" offered us by the opposition. To do away with hostility to our government we will create more hostility!

But this is not all. Not only does suppression create martyrs, arouse sympathy for them, and bring hostility against the government, but lends credence to the claims of the red agitators that the government is autocratic. Picture to yourselves the agitator of the future, armed not merely with his wild theories and general accusations, but with local, neighborhood examples. If to-day he can arouse men to follow him by stories of Russia and capitalist oppression in general think of the effect to talks like the following, "You all know John Smith. We know he was a good man. He never did anything against anybody. He didn't like the capitalists so their government put him in jail." And the neighbors and friends of John Smith will believe in the agitator and trust his leadership. Trading on the ignorant credulity of the lower classes is replaced by actual appeal to their own knowledge, their own actual interests, and their strongest emotions. The work of the agitators becomes tremendously easier and vastly more deadly. Yet this is the method we have been asked to follow in hindering the agitator and doing away with radical propaganda!

Having created martyrs and sympathy for them, having aroused hatred toward the government, having given the agitators the backing of local examples and the appearance of absolute truth to make their work more effective, this policy of suppression drives radical propaganda under the surface where the light of reason can not reach it, where it becomes more secure in its enticingness and more deadly in its nature. Theories which, in the bright light of the public forum stand out in all their putrid unsoundness, take on an air of reality and the truth when advanced in the murky half-light of some squalid back room in a tenement. Yet this, Ladies and Gentlemen, is the way we are to combat these false doctrines, by driving them from the light into their ideal breeding ground underneth the surface of society!

Yes, this is the proper way to rid ourselves of the Red menace; by creating martyrs for them, by arousing active

sympathy for the martyrs and their cause, by stimulating intense hatred toward the government, by giving credence to the stories of the agitators and making them actually rational, and by driving this propaganda under the surface, away from the light of truth where it can fester and strengthen unmolested! This is the "Solution", and now to enable this policy of the Affirmative to function we must adopt suitable methods of prosecuting it. The propaganda once driven under the surface, as it unavoidably must be the only thing to do to get at it is to send agents of the government under the surface where it is. This means the development of *a-nation-wide system of secret police, a federal spy system!* For the pattern we must leave America's shores and turn to Russia. For America has never developed a national spy system. Heretofore we have punished men for crimes committed or crimes uncommitted where the intention to commit was proved. All our history, all our tradition, all our ideals as a free people have been against any such system.

Let us face the problem in all fairness. Set aside all prejudices and face the facts. We have a perfectly reasonable situation for abnormal conditions following the greatest war of our history. We have had some unrest, there have been unpleasant features of reconstruction. And perhaps there has been some "red" propaganda. We have laws, at present, tried and proven effective in meeting with direct incitement to the overthrow of our government. Shall we now, to meet a situation calling for no extreme measures, change our entire governmental procedure? Shall we end Bolshevism by creating more Bolshevists? Shall we create martyrs to arouse active sympathy for social cranks, shall we arouse hatred toward our government, give credence to the red claims that our government is autocratic, drive the red propaganda under the surface where it is not subject to the competition of true theories, and introduce into our government, as we must if we adopt the policy of suppression advocated by the gentlemen of the Affirmative this evening, a national spy system, hoping in this way to suppress indirect attacks against our government?

Thinking America can have but one answer to this question.

THIRD NEGATIVE

William Dwight Whitney, Yale

We have pointed out that an attempt at suppression but drives propaganda underground and makes it more powerful and insidious. There is another and an even more subtle danger that follows on suppression. It is the danger that the law will be so misinterpreted and extended that it will be used to cover offenses which it was never meant to cover and will become a weapon of general terrorism. Benjamin Franklin recognized that there were many wild things said against property and government that were better suppressed, but he asked "to whom dare we commit the power of doing it?"

The laws that are proposed by the Gentlemen of the Affirmative must be enforced by such officers as the Attorney-General and the Postmaster-General. The one will have supervision of all printed matter, the other of all spoken. All must pass their review, and if they consider any statement or publication dangerous, they will be able to bring the author before the courts under indictment. Freedom to critisize the government in any way will be exercised only at the constant peril of indictment. Congress in passing these laws may not and undoubtedly does not, contemplate the prevention of any "legitimate" criticism; but under the jurisdiction of those who enforce it, it will undoubtedly be so stretched.

Such is the lesson of the history of laws like this in other lands. You all know the case of the poet, Leigh Hunt, who was indicted in England under the Mutiny Act because he published an article opposing flogging in the army. If he opposed flogging, as the King's Counsel reasoned, he must necessarily be inciting to mutiny. There was another case of an Englishman who during the French Revolution issued a pamphlet urging universal suffrage in Great Britain. The court decided that as there was revolution in France and as there was universal suffrage in France, so to be advocating universal suffrage in England

must necessarily be to be inciting revolution. That man was sentenced to fourteen years' penal servitude in Australia, and a ship was actually sent out from the United States to bring him back to this country that he might be free. There was a similar case in Canada during the recent war in which a clergyman was arrested for quoting the Bible, beginning with the passage "Woe unto them from whom offense cometh".

Our own brief experience with Espionage laws during the war brought out like cases in this country. In the New York Nation, published to-day, is a description of the trial of Miss Anita Whitney in California under the Criminal Syndicalist Act of that state. That she is not a Bolshevik is evident of her life record, which shows that she was in 1910 President of the College Suffrage League, after that for two years President of the California Civic Leagus and since then Vice-President of the Public Welfare League of Alameda County. She was a member of the Socialist Party. She was arrested for making a speech on the negro question, but in the five counts of the indictment no attempt was made to prove motive or intent, time or place when she might wilfully, maliciously, or feloniously have conspired by acts of violence and sabotage to bring about a change of government. The thing started up like the House that Jack built. Miss Whitney was a member of the Communist Labor party; this party had endorsed another party; and members of that other party had been convicted of "criminal syndicalism". Miss Whitney had no connection with the I. W. W., but for three whole days the jury's ears were filled with tales of incendiarism and sabotage. By such devious means are innocent people in our own free country brought to the bar of bigotry. A law which was aimed only at those who advocated force and violence, as the Gentlemen of the Affirmative constantly insist their law will do, was used, undoubtedly with honest enough attempt, to convict a woman who testified that she had never in her life advocated force or violence and whose whole career was a living monument against the charge. Why, then? Merely because she was a member of a party.

Nor is the protection of jury trial any relief in cases of

this sort. The jury was devised in Britain as a means of defense for the majority of the people against tyranny. It was never designed as a defense of a minority against a majority; nor has it ever been. For the prosecutor impanels his jury from those classes of the population which can be impressed by appeals to patriotism and to the security of property and who see red when they are faced by any defendant who may in the least plausible manner be connected with radical propaganda. The defense is only allowed a limited number of challenges to the jury.

I am not arguing that jury trials in general are failures. Juries as a rule have only to deal with questions of fact, and they are admirably fitted to decide whether a particular act of homicide or larceny or criminal negligence of what not has been committed, but they are the last body in the world to decide justly on questions of opinion. Socrates was condemned by the most august jury of ancient times. Christ was sentenced by the jury of the people, when the more intelligent magistrate Pontius Pilate himself could discern the injustice of the affrighted mob.

Almost any opinion may be twisted by a prosecutor into a dangerous meaning. That is why our fathers declared in this new free country for absolute freedom of press and for absolute freedom of speech. They recognized the distinction between direct incitement to overt acts and propaganda. Their feeling was expressed by John Stuart Mill, when he wrote in his famous essay on liberty, that an article in a paper arguing that that ownership of property is robbery or that government as a whole is bad may be safely allowed, but that when the same idea is expressed before an angry mob gathered in time of famine before the warehouse of a miller it may be considered illegal. The Negative insists on the distinction between acts and ideas, between incitement direct and the mere expression of opinion. To pass laws against the last is to go into a field of law prolific of party tyranny and injustice.

Thomas Jefferson once said that a little revolution now and then is a good thing and as necessary in the political world as storms in the physical world. For that statement he would undoubtedly be indicted by the Gentlemen of the Affirma-

tive. We of the Negative do not agree with that statement of Thomas Jefferson's. All we ask is—that you do not send him to jail for making it.

And now finally, even if all the fears that I have put forward are unjustified and even if these laws would be administered with rare forbearance and justice, the fact remains that the people of the United States fear them, and that the passage of them will breed suspense and discontent. Labor is unanimous in its fear that they will be used—mind you, no matter how carefully they are drawn—to prevent strikes. From almost every local of the American Federation has come up a protest against these laws. I hold no brief for Samuel Gompers; but I believe you will agree with me that he is close to the humble American citizen and knows his thoughts and feelings. I had the good fortune to hear Mr. Gompers testify on the Graham Bill before the Rules Committee of the House of Representatives; and I shall never forget the emotion with which he said: "You will take the idealism out of the people of America. You will take the reverence out of their hearts and souls for the spirit of the United States." The common people suspect this legislation. They know—and all the resolutions passed at Labor meetings proved—that it is against the spirit and letter of the Constitution. They know it for an abandonment of the faith that our fathers had in free government. We are being stalked into a fatal step by a blind fear that we have stirred up among ourselves of radicalism and revolution. Let us remember rather the saying of old Admiral Farragut: "I may be licked, but I'll be damned if I'll be frightened to death." May we be damned before we are frightened by a few disappearing radicals into an abandonment of those principles of freedom under which we have flourished for a century and a half.

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CHAPTER VIII

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERNMENT

UNIVERSITY OF WASHINGTON

versus

HARVARD UNIVERSITY

RESOLVED: *That Congress should suppress all propaganda advocating the overthrow of the government of the United States by force and violence.*

This is a stenographic report of the debate between an Affirmative team representing the University of Washington and a Negative team representing Harvard University, at Cambridge, May 21, 1920. The decision was in favor of Harvard. This report was secured thru William S. Holbrook, President of the Harvard Debating Council, and one of the debaters on the Harvard team.

BRIEF

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERNMENT

Affirmative

Introduction:

A. By this propostion the Affirmative mean that it should be considered criminal for anyone to advocate the overthrow of the United States Government by force and violence.
   1. Propaganda, to be suppressed, will have to be proven to be definite and positive, and disseminated with an objective.
   2. Advocating, as used in this proposition, means the open and direct urging of men to commit acts of violence against the United States Government.

B. Suppression should be applied only to cases where force and violence are openly advocated.

I. The government has a right to suppress propaganda of this kind.

   A. Whenever the rights of an individual conflict with the rights of society, the regulation of the individual's conduct is within the sphere of government authority.

   B. For an individual to advocate forcible revolution in a democracy is to interfere with the right of the majority to determine its form of government.

   C. This principle is recognized in practice.
      1. Over thirty states of the United States have enacted laws calling for such suppression as the Affirmative are advocating.

II. Federal legislation providing for the suppression called for by the Affirmative is needed for the protection of government.

A. State laws are not enough.

1. As long as one state fails to enact such legislation all the other states will be exposed to the evils of this propaganda.

B. Propaganda of the sort described actually exists and has been responsible for numerous recent disorders.

1. The recent Seattle strike is a prominent example.

III. It will be one of the greatest safeguards against encroachment upon the freedom of speech.

A. In the enjoyment of any privilege there is a line beyond which individual freedom conflicts with the interests of society.

1. It then defeats its true purpose and becomes criminal.

B. This law would safeguard freedom of speech by drawing this line so distinctly that it cannot be mistaken.

1. The limit of toleration would be clearly defined.

a. The individual would know when or when not he was safe in advocating any desired change in governmental institutions.

b. Only when force or violence were advocated as the method of securing the change, would the propaganda come under the law.

2. Under the present law the situation is one of uncertainty.

C. It would be not more susceptible to abuse than other criminal legislation.

IV. There is a real danger in criminal propaganda if it is not suppressed.

A. There is grave danger that the men who instigate it will control labor organizations.

1. By converting strikes into resistance against the government they may gradually break it down.

NEGATIVE

I. The drastic system proposed by the Affirmative is unnecessary and un-American.
   A. Public opinion is the best force with which to meet and overcome vicious propaganda.
      1. This is the method that has worked in various social disorders, such as Karneyism, the Haymarket riot, and the Seattle strike.
   B. Conditions are no worse today than they have been many times in the past.
   C. Public opinion in America has always stood on the side of law and order.
      1. The fundamental trait of the American people is a love for liberty under law and never without it.
   D. A policy of suppression has never thrived in America.

II. It is impractical.
   A. It fails to get to the root of the trouble, the political unrest which exists in the United States at this time.
   B. It attempts to apply to the foreign element in our country a method which has failed in their native lands.
   C. It shatters public opinion as the bulwark of liberty under law.
   D. It creates, instead, a spirit of direct antagonism for the existing form of government.
      1. It makes martyrs of the men who are the victims of suppression.

III. The remedy proposed by the Affirmative does not meet the evils described.
   A. It does not remove the causes of radicalism.
      1. It is merely a policy of suppressing the expression of discontent with the government.
   B. The proper method is:
      1. To discover what the causes of unrest are and removing the grievances if they exist.

2. If the radical is merely misguided and a fanatic the policy should be Americanization and education.

IV. The government of the United States is amply protected by existing legislation.
   A. We have already two penal codes which provide for the punishment of one or more persons conspiring to overthrow the government.

V. The legislation proposed would tend to suppress all expression of healthy discontent with existing conditions.
   A. It would tend to suppress doctrines merely because they were unpopular.
   B. This is opposed fundamentally to the principles of free government.
      1. That minorities have the right of expression is one of the bases of free government.
   C. The best way to meet discontent is to allow men to talk it out freely.
      1. Ideas can be met successfully only with ideas, not with force and violence.

SUPPRESSION OF PROPAGANDA FOR THE OVERTHROW OF THE UNITED STATES GOVERNMENT

UNIVERSITY OF WASHINGTON

versus

HARVARD UNIVERSITY

FIRST AFFIRMATIVE

Earl C. Nelson, Washington

Mr. Chairman, Ladies and Gentlemen: In opening this debate, it is the duty of the Affirmative to define and analyze this proposition and to point out the issue involved. The question reads: "Resolved that Congress should suppress all propaganda advocating the overthrow of the government of the United States by force and violence."

According to the Standard Dictionary, propaganda involves a dissemination of opinions or doctrines, and a propagandist is one who propagates with an objective. Hence, any propaganda which we will suppress is a definite and positive propaganda, a propaganda which is disseminated with a purpose and an objective.

Advocating does not mean leading to or suggesting; advocating is the open and positive campaigning of a certain doctrine or act—in this question it is the open and direct urging of men to commit acts of force and violence against the government.

Under the Affirmative's proposition, it will be a crime for anyone to advocate the overthrow of the United States Government by methods of force and violence. Thus we see, Ladies and Gentlemen, that the test of guilt is the method advocated.

In order to make this point clear, let me illustrate. An

individual may stand upon a soap box in the Boston Common and say he believes the government of the United States is all wrong; that it is built upon the wrong principles; that Congress is useless; that he favors the abolition of Congress; that he favors the abolition of the Constitution of the United States, if you will, and the substitution of a Communist form of government—in that right he would be protected under the Affirmative's proposition.

But when that individual stands upon a soap box in the Boston Common and says he believes the Government of the United States is all wrong and he advocates its overthrow or destruction by methods of force and violence, then he will have crossed the dead line.

Thus, you see, Ladies and Gentlemen, the test of criminality is the method advocated. It is universally recognized that whenever the rights of an individual conflict with the rights of society, the regulation of the individual's conduct is within the sphere of government authority.

In pursuance of this principle we restrict innumerable so-called liberties, and individuals cannot slander the character of a woman, cannot utter obscene language in a public place, cannot maliciously shout "fire" in a crowded theater and in four states cannot advocate or urge a run on a bank.

For an individual to advocate forcible revolution in a democratic republic is to interfere with the recognized rights of the majority to determine its form of government.

In the words of former Chief Justice Marshall, the inherent rights of any democratic government to exercise the right of self defence is understood. To preserve its existence and to silence those who urge its forcible overthrow. I believe we both ought to agree that whenever the utterances of an individual are inimical to the best interests of society, it is within the sphere of government authority to overthrow it. It is the right and duty to suppress the utterances of that individual.

Let me now point out, Ladies and Gentlemen, that the principle which we are supporting is recognized not only in theory but accepted in practice. Over thirty states

realizing the necessity of suppressing the advocacies of the overthrow of society by force and violence, have enacted legislation embodying the principle of the Affirmative. But the states in many instances did not stop at this point. They enacted laws more comprehensive which are thought by some to infringe upon the living rights of an individual.

We of the Affirmative are opposed to all laws placing restrictions upon the individual which are not necessary to the self protection of the state and society; but we are not restricting criticism of the government. We are not restricting opinions or ideas. We would suppress only the advocacy of a crime. We would suppress only the advocacies of force and violence as a method of governmental change.

Ladies and Gentlemen, we cannot, dare not depend upon state legislation. We must have a Federal law to meet a Federal need. So long as one state fails to enact and enforce this legislation all the other states would be exposed to the evil of this criminal propaganda. For example, although the state of Washington since 1909 has had a law against criminal anarchy, no such law existed in Oregon and Illinois. As a direct consequence of this fact, thousands of pamphlets advocating the overthrow of the United States Government by force and violence were printed in Cleveland Ohio and Chicago, Ill., then shipped by freight into the state of Washington and then distributed among the workers in our logging camps and coal mines.

What is true of the state of Washington is equally true of Montana, Idaho, Colorado, in fact it is true of the entire West.

Now, in order that you may appreciate the character of this propaganda, in order that you may appreciate the necessity of suppressing it, let me read a few specimens. You may consider this ultra-radical propaganda, but it is typical propaganda in the West. It was shipped by freight into the state of Washington and distributed among the workers in our basic industries.

"As a revolutionary organization, the Industrial Workers of the World aim to use any and all tactics that will bring the desired results about. The tactics used are determined solely by the powers of the organization to make good in

their use. Not ballots—but bullets, and revolution if need be. The question of right and wrong does not concern us."

Referring to civil war: "The advocates generally do not like civil war. But we consider that it is the only sort of war which can possibly be of any advantage to us."

Again referring to civil war: "These things are to be, no force can stop them. Armies will be of no avail. Governments may issue their mandates in vain."

Would the Negative suppress this kind of propaganda? I will now read from a portion of the propaganada printed in the International Weekly of May 1919. This was confiscated by the Seattle police and is now being held in the Criminal Courts under our laws. *"May Day Propaganda."*

"Another May day is here and the blood of labor champions is unavenged. It may not be next May Day or the next May Day, but the day will come when the slaves will rule. The government, rotten and rich with obsolete ideals, will call out its scabs with their bayonets and machine guns but to no avail. There will be blood shed but it will be sacrificial blood. The workers will prevail."

Then it quotes from the World. "You have arms, you know how to use them; will you lie slaves? Use them in defence of your Master or will you use them to help your class be free?"

Portions of a manifesto of Anarchist Communist, published by the Federation of Unions of Russian Workers of the United States and Canada, which manifesto in pamphlet form was distributed among the unskilled workers along the Pacific Slope.

"We hate religion because it lulls the spirit with lying tales. It has always sanctified slavery and we declare war against all Gods and all religious fables. We hate authority, we hate the state, that receiver of slavery and foe of freedom. We declare war upon the state. We are anarchists."

Ladies and Gentlemen, this is the propaganda. What are the results? A series of violent uprisings and upon the soil a perpetual battle ground where time after time, a tense industrial situation has culminated in armed conflicts with the military of the United States. The class

conflict is directly traceable to pamphlets such as these—propaganda, if you please, printed in nine different foreign languages, urging a tax upon United States soldiers; advocating the overthrow of a government that guarantees now naught but slavery.

Efforts to establish a Soviet government have been made in the West, established for three and a half days, costing 19 lives. When the government of the state and the United States was reestablished greater casualties were involved. At Everett 26 persons were wounded, three deputy sheriffs shot, for ex-service men were shot from ambush.

Ladies and Gentlemen, this may be an academic question in the East, but with us it is a vital reality. Thank you.

FIRST NEGATIVE

William S. Holbrook, Harvard

Ladies and Gentlemen: To allay fears of the Affirmative, I may remark that we hold no brief for the radical or the Red but we do believe the drastic suppression of the government of the United States by force and violence is not only needless but fraught with danger.

And so it is a great pleasure to meet the Gentlemen of the Pacific on the debate platform for the first time in our history. But it is a greater pleasure to find that there are certain great principles of Americanism which must be maintained.

The one for the Affirmative has told us that you must have a drastic system. It is adopted in thirty states; and our answer is that we disapprove of it in those thirty states exactly as much as if it were adopted by the Congress of the United States.

We believe in truly American systems. Forty years ago there was a great danger extending throughout the entire country. It was in 1877 when we had just come to the Hass controversy. There was a Communist meeting in New York that was threatening the existence of our country. Unloyal utterances were greater than ever before or since. An ex-sailor believed this to be a good time to

spread his propaganda and so he began to denounce, up on Nob Hill, San Francisco, where he had been holding his meetings, the United States government and to advocate its overthrow by force and violence. And the government suppressed Mr. Karney, for that was the sailor's name, and put him in jail. And the result was that Mr. Karney's followers met him with a decorated carriage and drew him down the main street of San Francisco and within a few weeks they had captured the city election, the state legislatures and in a few months passed thru a constitutional amendment and through that put through a constitution of their own making.

And then the people woke up. They had found that suppression did not suppress and they tried another method. They tried that of surging up public opinion. Mr. Karney's followers were halted and within two years Karneyism was a thing of the past. And that, Ladies and Gentlemen, is what we believe to be the truly American system of meeting the danger which is threatening the country now.

Unless there is a danger, a danger greater than that of 1877 then and only then can we justify the attitude of the Affirmative. And so let us pass over present day events and go back and see if events haven't been just as bad in the past as they are today.

Take this instance of 1877, only transfer your interest to the East, Pittsburgh. At that time this city was a strike center and in one night thirty million dollars worth of property went up in flames. Was that the beginning of a Red menace that was going to sweep the entire country? Of course not. The public opinion of Pittsburgh was aroused against the strikers and they crushed the strike of that year. The same thing occurred in the 80's—this time a railroad strike extending throughout the country but centered in the city of Chicago. Forty thousand men were out on strike. Fourteen hundred went to a mass meeting and listened to some anarchistic speeches and then a party of police entered and told the chairman that he would have to dismiss the meeting or be arrested. The chairman refused to dismiss the meeting and as the policemen were leading him up the aisle a man stood out and threw a bomb. It landed in the center of those police and killed a great many of them.

Yet it regathered and sent these men out of Haymarket square. But was it the beginning of Red Anarchy for Chicago? Certainly not. The law-abiding sober people of that city decided that the Haymarket massacre had gone far enough and public opinion quelled that riot and put down the strike of 1886.

I might refer to several others: The Pullman strike of 1914; the homestead strike of 1900; the miners strike of 1910, or the same example that the Affirmative have used—the Seattle strike. There was a strike organized as no other strike has ever been organized in all history.

They intended to stop all the ordinary industries but those absolutely essential to the livelihood of a city. But they carried their fight against the dead. As funeral after funeral went down the streets of Seattle, for it was at the height of the influenza epidemic, each hearse carried a large black lettered card: "By special permission of the strike committee."

By special permission of the strike committee! And then the next day that strike committee came to Mayor Hanson's office. The strike had been a complete success. Not even a newspaper had been published. Mayor Hanson told them to wait. He went to the office of the Seattle Star. He asked them to publish a special edition and they consented. In the paper was an ultimatum to the strikers; a proclamation to the people asking for their support.

He then returned to the strike committee and gave them his ultimatum. It was unconditional surrender and within fifteen minutes of the time that strike committee received the Mayor's ultimatum 250 eager men came to his office offering aid. All afternoon the man power of Seattle poured in until the strike committee admitted that the general strike had been proved to be a failure.

In the words of Mayor Hanson himself: "Seattle stood square and loyal. Its Americanism burst into flame and the Bolsheviks and the I.W.W. were crowded into the boats and railroad stations seeking to escape."

And then the Pacific Coast, having shown its metal, it came the turn of the Atlantic. In Boston we knew what Anarchy meant. For twelve hours not a woman or child was safe. The downtown thoroughfares were crowded with people. The Boston Common was a mass meeting

of gamblers. Then, when it seemed that Boston was going to become the very symbol of Anarchy, what happened? The newspapers told us that all classes were volunteering to police themselves, and Boston did for three days until the militia were able to take over the situation. The public opinion of Boston broke the police strike of last fall.

And then, a month later, the man who had been responsible for the breakdown of that strike, ran for re-election. He ran on a platform of law and order against a man who upheld the police and Governor Coolidge was elected by a majority that showed that the people of Massachusetts stood exactly where the Gentlemen of the Affirmative and their inhabitants stood a few months before.

And what, after all, Ladies and Gentlemen, are the lessons we can draw from all this? First, that the picture the Affirmative has painted for you, a picture of a nation on the verge of ruin, is no worse than conditions have been many times in the past and when he tells you that we are on the verge of ruin until we take drastic measures, he is merely repeating and echoing the statement of many men of thirty or forty years ago. But there is another lesson greater than that. And it is that there is one force and one force alone that kept the United States safe through all these crises—and that was the force of public opinion.

It was not suppression that put down Karneyism, for suppression had failed. It was not suppression that put down the Pittsburgh riot for the Communist meeting in New York was going on unchecked. As freely as the people cared to circulate literature it was being circulated.

The Haymarket incident was not put down by suppression. It was that same force of public opinion that put down the Boston police strike.

And there is a second and more important conclusion. And that is, Ladies and Gentlemen, that AMERICAN PUBLIC OPINION has always stood on one side and that has been the side of law and order.

Oh, you say public opinion has changed on various subjects. On these movements, yes; it did as long as any movement or any strike appeared to be an economic movement, but as soon as any strike or riot appeared to be a struggle

between anarchy and good government, between law and order and chaos and riot, then there was no doubt as to where the American people stood.

George Curtis, thirty years ago, said the fundamental trait of the American people was a love for liberty under law and never without it; and it is because the Negative believes in this trait of the American people that we believe that what the Affirmative is arguing for is not necessary. Nobody can doubt the force of public opinion. The last war proved that to us.

As long as moral obligation means public opinion backing a government; as long as the Germans had their morale our armies could not advance. But as soon as the morale was broken, the war was over. The same thing is true in this country. Whoever saw a country change from a state of absolute peace to a state of armed resistance and unlimited armed facilities in the short space of a year. Would an army of four million men develop without the force of public opinion? Certainly not.

And so we believe when the Affirmative advocate this policy they are merely following it to a hysteria which is only temporary instead of permanent.

Three hundred years ago in a little village thirty miles from here the people believed a certain party had seen the devil and that unless they suppressed that part of the population they would have not only political but moral ruin. And so they suppressed those people for four years and today, Ladies and Gentlemen, we almost smile at the witchcraft hysteria at Salem. And will we not be smiling at ourselves ten or fifteen years from now at our contemplated drastic suppression of free speech? We put our faith in the American people and the force of public opinion.

SECOND AFFIRMATIVE

Floyd Toomey, Washington

The speaker who just left the floor has referred to the way in which public opinion broke the Seattle general strike. May I state as one who has just come from Seattle, as one

who arrived in Seattle at the time that the general strike was on, that it was not the public opinion of Seattle that was the immediate cause of breaking that strike. After conditions had become intolerable in the city of Seattle a conference was called between the Governor, the Mayor of Seattle and the President of the University of Washington. As a result of that conference Federal troops were on their way to the city of Seattle and at that time, after the ultimatum was delivered to the srike committee by the city officials, the Seattle general strike passed on.

It was not the result of public opinion that was the immediate cause of breaking the strike. The Gentleman has continually in his speech referred to the fact that the Affirmative was advocating drastic legislation; the result of hysteria. We take exception to this in both respects. We do not claim or believe that the problem is hysterical.

The problem was with us before the war. It was merely brought more forceably to our attention as a result of the war and in the second place, the repressive measures are not drastic but they are limited in such a way that they will serve as a protective measure, both in times of peace and in times of war.

If we were here tonight advocating a continuance of our drastic wartime sedition act, in peace times, or if we were here favoring some of this comprehensive legislation which has been introduced into Congress, then it might be said that we were being carried away with hysteria.

We are now, however, advocating a measure not only necessary for the protection of the government but which will be one of the greatest safeguards against encroachment upon the freedom of speech. The very reason we are debating here tonight is because there is doubt in the minds of many people, and many courts, as to the exact limit of toleration which exists in this country. The legislation which we are advocating is limited in such a way that it will define the limit of toleration for this government, and after all, it is only by clearly defining the limitation on any matter that we can safeguard against encroachment upon them.

In the remaining time I have, I will consider this question from the standpoint of a right of freedom of speech,

to show you that this has a recognized limitation and that it is the duty of the American government to make that limitation clear and effectual.

We want no misconception of our stand. We are in accord with the most ardent champions of the freedom of speech. We believe it is the safety valve by which our institutions can be adjusted to changing conditions. We believe in the freedom to advocate any government provided it be advanced by peaceful and not criminal methods. This right carries with it a limitation; there is a dead line beyond which men cannot go. A line which has been crossed by him who advocates the forceful destruction of the very institutions by which freedom of speech is guaranteed.

The keynote of this situation was expressed by Chief Justice White of the United States Supreme Court: "The safety of guarding free and constitutional institutions is the basis upon which which freedom of speech rests and cannot be held to include the right to destroy such institutions. Freedom of speech is enjoined and subject to restraint which separates right from wrong doing." There is the dead line beyond which men are not allowed to go.

There is a dead line beyond which men are not allowed to go in the enjoyment of any privilege; a line beyond which individual freedom defeats its true purpose and becomes criminal. It is the function of all criminal laws to define the limitation beyond which individual freedom becomes a menace to society. In drawing the boundary line we balance the interests of the individual against the interests of society.

Applied to the freedom of change in government the right of the individual clearly conflicts with the interests of society at the point where he advocates the destruction by force and violence of the criminal methods of existing institutions. When a man's mind becomes so inflamed that he would destroy the institutions of a country by force and violence; at that point he should be restrained.

To say that he should be protected in inflaming the minds of others against the government under the guise of free speech is bringing hypocrisy. When a man has reached that stage, he has crossed the dead line where force

and violence becomes criminal—beyond which free speech tends to defeat its true purpose. Freedom to change or to advocate change is defeated by the license to so change it by force and violence. In a democratic republic you cannot mix reason with force. Either it must function through the exercise of free discussion or it must be subjected to the intimidation of the armed minority. Force is the weapon of an impatient and destructive minority who are willing to have their theories tested; who are unwilling to have their theories tested by the light of reason.

This legislation which we are advocating is directed against a class, against a certain class who have refused to use the ballot as a means of governmental change and as a result they have repudiated the very principles upon which our government was founded. I believe it will not be denied that freedom of speech has a limitation and that no man may advocate force and violence as a means of governmental change in a democratic republic.

We have shown you that present laws fail to make that limitation clear, because it is impossible for the Federal government to reach the individual who transgresses. Because of that very fact, the states in an attempt to remedy that situation have made a lot of legislation which conflicts. The situation is one of uncertainty. The administration of this comprehensive war time sedition act has brought the question of free speech to the public. We are debating this question here tonight. There is doubt in the minds of many people as to the limit of toleration that exists. It is the duty of a national government to clarify the situation; to meet an existing evil and to safeguard itself upon encroachment of the principle of the freedom of speech.

We are asking that Congress enact legislation to make this limitation clear and effective, by which the limit shall be defined once and for all time by the American government. The clarification of this simply will serve a two fold purpose.

First, from the standpoint of the government, it will lay down a criterion of guilt. Against an evil which exists it will be protected and it will safeguard the right of freedom of speech in the future.

Second, the individual is made clearly aware of a recognized limitation on the freedom of speech and of the press and gives notice to the revolutionist who does not recognize any limitation that the government restricts him, and to the well meaning radical that he is free to advocate any policy, political, social or otherwise which does not involve the issue of force and violence.

But we are told that Congress cannot define this limitation; that she cannot draw the line without encroaching upon the rights of free speech. All criminal laws are alike in that they are limitations upon conduct and suppressing in character. Injustice and abuse result from the application of a criminal law only when so comprehensive that the individual does not know when he is committing a crime. Misapplication may result when the crime as defined consists of numerous and complicated elements.

On the other hand, a law is specific and certain when it is complete and when the test of criminality is apparent from that description. We are asking that Congress enact legislation prohibiting the advocacy of the overthrow of the government by force and violence; and we have shown you that the test of criminality is the method advocated.

It will be immaterial whether the change is wise or unwise, radical or reactionary. Only when force and violence is advocated as the method would it come within the scope of this law. We are drawing the line where it could not interfere with progress or change. We are drawing the line where it does not interfere with criticism or the expression of beliefs. At the point where it protects the community against this destructive minority who are unwilling to have their theories tested by the judges of the community—therein do we limit the liberty of expression.

Ladies and Gentlemen, is there anything in such a law which is uncertain? Just compare this with other laws with which you are all familiar. Section 10382 of the criminal code is a law against the circulation of libelous matter. "All matter otherwise mailable by law containing matter of a defamatory nature to the character of another person—such persons may be fined not more than five thousand dollars or two years in prison or both."

How, as a matter of fact do we determine whether printed

matter is calculated to reflect injury upon the character of an individual? This is certainly less specific than that which limits the advocacy of the overthrow of the United States government *by force and violence.* I thank you. (*Applause*)

SECOND NEGATIVE

Barton H. Kuhns, Harvard

Mr. Chairman, Ladies and Gentlemen: So far in this discussion, one of the chief arguments which the Gentlemen of the Affirmative have advanced for the policy of suppression is the great uncertainty at the present time. They say that you don't know and I don't know just exactly what the present situation is; just exactly what I may say and what I may not say.

I once saw a baseball game and it lasted a long time and after about nineteen innings the score was even. And the umpire didn't know which side was ahead but simply because the umpire didn't know just exactly where the line was drawn—whether or not we should or should not, that did not seem to the umpire sufficient reason to suppress the baseball game, to defeat one side, nor should it seem to you any reason for suppressing the propaganda for the overthrow of the government.

The last speaker has pointed out that there are no immediate needs of any such drastic policy that the gentlemen propose. And instances when on every occasion, in every crisis the force of officious public opinion demanding law and order has always managed to pull the people through. But not only is a policy of suppression undesirable but it is equally objectionable because it is impracticable. It fails to get to the root of the deal; of the political unrest which exists in this country at the present time. There are two reasons why a policy of suppression won't work. It is an attempt to apply among the foreign element in our population a method which has failed by their home government in their native land.

The second reason why it won't work is that it shatters public opinion as the bulwark of liberty under law and

creates in its stead the spirit of direct antagonism for the existing form of government.

The gentlemen of the Affirmative have laid emphasis upon the fact that the proposition is not new in principle and in this respect they have assumed quite the proper attitude; for it has been tried and rejected because it failed many times in the past. In 1795 William Pitt while passing down the streets of London had been fired upon by an assassin from the French revolution and William Pitt enacted a policy of suppression. William Gardner and the history of him point with pride to the fact that these two laws were never put into effect and he refers to them as two of the most unfortunate bills ever written on the statute books of England.

France had a policy of suppression but found it inconsistent with the government of the republic and abolished it in 1831. In 1901 when Bismark adopted a policy of suppression and found that the Socialist party had increased from five hundred thousand to two million, that master of blood and iron concluded that the policy of the Affirmative was too imperialistic for the Germans and he annulled the very measure he had advocated.

And we have the instance of Russia. It did work for a while but finally the people gained their freedom and if any Red menace threatens the democratic government of the world it can be attributed to the suppression by Russia of such things as the Gentlemen of the Affirmative propose today. Nor has suppression succeeded in America for in 1690 with the first bit of printed matter appeared in the city of Boston, the Governor of the Royal Colony ordered it suppressed and the people of this community arose in such opposition that it could not be put into effect. Other Royal Governors met the same difficulty until at the famous Singer trial in 1842 a verdict was rendered which Governor Morris said marked the foundation of American liberty and that, in essence, was the complete establishment of the freedom of speech and of the press and the inalienable rights of the inhabitants of America.

In 1798 when the Federalist party tried the alien and sedition laws which had threatened William Pitt they met with such opposition that the Federalist party was forced

out of existence and now for 140 years this country has continued to thrive without a policy of suppression until today, when the gentlemen of the Affirmative come forward proposing a policy which was rejected because it failed and made it inconsistent with the government of the United States when that government was only ten years old.

The important lesson for this historical experience is not only important but far reaching. In direct antithesis to what has been termed the foundation stone but also to attempt to apply that policy in this country today is to attempt to apply among our population a method which has failed by their home government in their native lands. And then there is a second fundamental reason why a policy of suppression won't work and that is that it shatters public opinion as a bulwark of liberty and creates a spirit of direct antagonism to the existing form of government.

My colleague has pointed out that in every crisis in the past there has been one force which has always pulled us safely through and that was public opinion demanding law and order. And the Gentlemen of the Affirmative believe that a policy of suppression will succeed simply because it has the support of public opinion behind it and yet they propose to create an automaton which will refuse to let the reaction against such propaganda take place, and what is the result? Public opinion crumbles away and decays. We have killed the goose that laid the golden egg. We have killed the policy which must make suppression succeed. This policy cannot be a substitute for public opinion demanding law and order.

For after all, no matter what policy Congress may pursue, no matter what laws may be written, it is utterly impossible to suppress an idea in the mind of any man. In some underground way that idea finally is to be suppressed. For a policy of suppression removes a rattle from the rattlesnake and leaves him just as poisonous and harmful as before. Which is the most important for us to fear, the propaganda or the organization which produces the propaganda? For when we have suppressed the propaganda we have not only utterly failed to suppress the organization but we have suppressed the means by which we know when, where and how that organization is acting.

And not only that; not only have we created an automaton but that which is far worse. We have done the very thing which we intended to stop; we have created a spirit of antagonism to the existing form of government.

Let us suppose for a moment that a policy of this kind should be adopted and we find that the gentlemen of the Affirmative are placed in a dilemma. For one of two results is sure to happen.

If the courts should render a decision and in that decision should copy any of the propaganda concerning that decision into the court journals, it would be copied by the newspapers and spread farther and faster than any propaganda ever had been if the policy had never been put into effect.

Or, they say, "No. We shall pursue the same course that is now taken in the case of obscene literature." But here, let it be said that where the average citizen is quite content to take the word of the court, the average citizen is not willing to accept what the courts say in criticism of the form of government of which the courts are a part.

The average citizen will soon begin to wonder what the blank line indicated means; not only will he become more susceptible but he may evolve some ideas about what change should be made, himself. He may even become a propagandist himself. In the second place, a policy such as this will create a spirit of antagonism because it is inconsistent with the democratic form of government.

We have heard a little about drawing the line. For my colleague intended to show you that it was impossible to draw the line between that propaganda which does advocate the overthrow of the government by force and violence and that which does not so advocate the overthrow of the government. But the abuse to which I wish to call your attention this evening is that the proof of a law is not in what the courts say about that law. The proof is in its execution, and in a law which seeks to suppress, it is necessary to confiscate the press and then wait a year or two and see whether that which has been suppressed really advocated the overthrow of the government by force and violence or not.

And then, finally, the suppression will make martyrs

out of those who are suppressed. In Albany, New York, where five Socialists were suppressed the result was that the best lawyers in this country offered their services for their case. A majority of the New York bar stands in back of the Socialists and Charles H. Hughes says that did more to increase the Socialists' vote, which otherwise would have been its death.

And again, take the instance of Eugene V. Debs for president. We of the Negative prefer very much to let a man who has a false or an ill or mis-conceived idea stand up in front of the people and air his views rather than to have him sent to the Penitentiary to be made a presidential candidate. I thank you.

THIRD AFFIRMATIVE

Wendell W. Black, Washington

Ladies and Gentlemen: The principal contention of the preceding Negative speaker has been that suppression will not suppress. He has argued from history and historical analogy but the measures were in no case similar to the measure proposed this evening.

In Russia, Germany, France, suppression was by an autocratic minority to prevent criticism by the majority and to perpetuate minority rule.

In the United States in 1798 our suppression of legislation prevented criticism of the government and was framed to prevent criticism of the Federalist party which had already lost the confidence of the majority.

The measure which we are proposing is different. It is legislation for the protection of a representative government in a democratic government from a vicious minority, which, repudiating the ballot, advocates force and violence as the means of imposing their will on a peaceful majority.

The measures which the gentleman gave you were measures to prevent criticism and to suppress belief. Under the measure we are proposing it would be possible to criticise the government, tho the criticism might be groundless. It would be possible to expound great evils tho they might be imagined and we would only draw the line when the

individual advocated force and violence as the method of changing the government.

Up to this point in the Affirmative cause we have shown that the measure we are supporting is specific in extent and no more susceptible of abuse than our criminal laws generally.

Though there has been considerable agitation in this country that all should be suppressed, to be sure, this measure wouldn't be used to suppress the legitimate expression of opinions, we have limited it to a class of propaganda which is clearly criminal, that which advocates the overthrow of the government by force and violence.

By so limiting the law it would be similar to the sedition laws. The Espionage Act made illegal all disloyalty which interfered with the successful conduct of the law or sale of Liberty Bonds.

We want to make clear that the measure is fundamentally free and different from the objections to the so-called sedition laws, because we would legislate against a much more limited class of propaganda and because we would apply a different and more definite test to criminality of the act.

Instead of attempting to legislate against all disloyalty we would limit the operation of the law to that class of disloyal utterances which advocated the overthrow of the government by force and violence. Instead of making disloyalty the test of criminality and attempting to determine which was disloyal and which was not, the test of criminality would be the method advocated and when force and violence was advocated as the method of changing our government then he would have crossed the dead line and would be suppressed.

We have confined the Affirmative case so far to an examination of the measure to show, first that it is within the sphere of governmental authority to enact such legislation; and second that if the law were not misapplied by the courts it wouldn't cut off any legal rights of individuals but would be a clear statement of a recognized limitation of a right; and third that the danger of mis-application by the courts is no greater than under criminal laws generally.

The Negative have maintained that this legislation en-

dangers the right of the individual. We believe that they have exagerated that danger. But there is a real danger to consider in this debate. It is the danger which the Negative have attempted to minimize throughout this discussion: The danger of vicious propaganda if not suppressed. In the United States we have the Communist party and the Communist Labor party. They are both branches of the Third International, called by the Soviet Government at Moscow. They have the I. W. W. which at its last convention passed a motion favoring affiliation with the Third International, the union of Russian Workers.

Attorney General Palmer in an Associated Press report for April 11th said, "There are many anarchists and propagandists in this country, here for the purpose of breaking down this government by the same methods that they used in Russia."

The first speaker of the Affirmative read you excerpts from propaganda which has been distributed over the West. If the only question were public morals that kind of propaganda should be suppressed. Under the guise of free speech you cannot slander the character of a woman; libel the character of a man or conduct a school in burglary. Under the guise of free speech we should allow criminals to conduct a correspondence school in criminal anarchy! Legislation which we are proposing is in no sense anti-labor in purpose. In fact it is necessary for the protection of labor, for without it propagandists are enabled to use labor as a tool in a criminal enterprise.

In the state of Washington a short time ago was enacted a syndicalism law. Since it has been in effect there have been ninety convictions in seventeen courts under it. These men come from our logging camps mostly. They are all dupes of the propagandists. The incident of a bunch of I. W. W. firing on a parade of Ex-service men showed that they were the instruments of a more than dangerous class of criminals—the propagandists who advocated the commission of this kind of crime. The protection of labor requires a law which will not only reach out to the laboring man when he attempts to put the criminal program into effect but will reach out to the propagandist who is advocating and soliciting this kind of crime.

If this propaganda is not suppressed there is grave danger that the criminals which instigate it will control labor organizations and by converting strikes into resistances against the government will break down the government of the United States. They are making a tremendous effort to control labor organizations. In many instances they have been successful. In most they have been able to get a considerable play. This is evidenced by the fact that we have had outlaw strikes in organizations where they couldn't control the union laborers.

Samuel Gompers says criminal anarchists are making strenuous efforts to control the American Federation of Labor. The next step is the converting of strikes for an economic advantage into resistance by force and violence against the government of the United States. I am not theorizing now. The propagandists advocate this kind of warfare for in the manifestos for the United States and Canada in 1919 we have the following: "We must convert small strikes into general ones and the latter into an uprising against the government of the United States."

We want our position clear. We are not afraid of labor itself; we are not supporting a program that would interfere with the right to strike. For we do want legislation which will recognize the distinction between the criminal and industrial phases of this problem and will prevent criminals from using industrial organizations as the basis of a criminal organization against the state.

Whatever is the purpose or status of a strike propaganda always endeavors to use it against the government of the United States. If the strike is a losing one the propagandist is being opposed by a combination of capital and the government and advocates armed resistance against both.

If winning he urges them not to stop short of a complete victory by destroying the state and capital. The strike is a great potential danger. It is as a loaded mine. The vicious propagandist is as the lighted match. In order to prevent the explosion many favor anti-strike legislation to remove the potential danger, but whatever may be your view as to the desirability of that type of legislation you must at least concede that we are justified in preventing

the explosion by removing the lighted match—the propagandist which advocates the overthrow by force and violence of the government and the state. By controlling labor organizations and by converting strikes to armed uprisings against the government of the United States it would be possible to break down our government. The ultimate danger is the complete breaking down of our system of government. Even now, in view of the International internal situation we are not justified in dismissing the situation as alarming.

But we must not wait for rebellion. Then it is too late for the legislation to do any good. Just as it is too late to pass the fire ordinance when the community is in flames. The situation now requires legislation to suppress those who advocate the overthrow of the government by force and violence. But the Gentlemen of the Negative maintain that this legislation endangers the right of the individual. But we maintain that the individual can criticize the government; that he can state his grievances; that he can advocate any conceivable form of government or any change in government as long as he does not advocate the overthrow of the government by force and violence. This isn't cutting off any rights of the individual.

But if this legislation limits the right of the individual he would be justified in the greatest right—the protection of the sovereignty of the government itself. The protection of this right requires legislation making it illegal to advocate the overthrow of the government by force and violence. For in a democratic government the right to advocate change by peaceful methods is defeated by the license to advocate change by force and violence. I thank you.

THIRD NEGATIVE

Lawrence Dennis, Harvard

Ladies and Gentlemen: The case so far presented to us has two very clear issues. In the first place the Gentlemen of the Affirmative insist that we need the suppression of

propaganda for the overthrow of the government as a means of protecting the state, and as a means of combating radical, and dangerous propaganda, which is practically the same thing.

We of the Negative entirely concur with the gentlemen in a desire to protect the government of the United States. And we believe that the government of the United States is very effectively protected by the legislation which we now have. We are opposed to the principle of suppression of propaganda as it is offered to us tonight because, as we have pointed out, we do not believe the need exists for such a policy of suppression and in the second place because suppression has not succeeded in accomplishing its purpose and now we want to consider this question in its broader aspect; as a remedy for Bolshevism and Radicalism.

This remedy which they propose does not meet the evil; it does not remove the causes of radicalism. It is merely a policy of suppressing the expression of discontent with a government.

Now with regard to the radical in this country, we believe that we are right in assuming generally one of two things in many cases about him. Either that that radical has some dangerous grievance against the government, and we do not believe he is dangerous unless he has a grievance. If he has a grievance we believe that the policy that we should then pursue should not be of suppression but to discover what the causes of unrest are and to remove those causes. That policy is more difficult of statement and more difficult of application than policy of suppression, but we believe that it is the American policy. And then with regard to the radical, it may be assumed that the radical is a misguided, deliberate fanatic and that his followers are misguided also.

Now, the proper attitude to assume is not that of suppression but of education and Americanism. If we have a certain element of our population who are influenced by radicalism we believe that the proper method to deal with them is the method of education and Americanization and not of suppression.

Now having briefly outlined what we believe to be the proper policy with regard to the Red menace as it now

presents itself let us now try to get at the real issue between the case which the Negative offers and the Affirmative.

Now the Gentlemen from the Affirmative insists that the government of the United States must be protected. We maintain that it is already protected by all existing laws against rebellion and against conspiracy to overthrow the government of the United States. We have already two penal codes which provide if one or more persons conspire to overthrow, put down, or destroy the government of the United States or oppose it they should be punished.

The difference between conspiring to overthrow the government and advocating the overthrow by force and violence may be a rather strained difference but that exists nevertheless. There is a difference between the overt act of conspiring against the government and the act of getting up on the Boston Common and offering a lot of wild utterances against the government. And we are quite prepared to defend the policy of punishing the man who enters into a conspiracy for the overthrow of the government. The man who commits a definite act or an attempt to overthrow the government should be punished but we do not believe in the suppression of a man who merely utters revolutionary doctrines which do not constitute an act of conspiracy against the government of the United States.

Now that is the fundamental issue in this debate. Their policy is the policy of suppressing those utterances which advocate the overthrow of the government. Let us take a case in point. The Communist party published a pamphlet in which the following sentence occurred: "I. W. W. awake, put down your enemies and smite capitalism." How would we deal with a case like this under a law of suppression such as the gentlemen of the Affirmative contemplate.

Just as Mr. Clark said, this is clearly an appeal to arise and put down by force and violence the government of the United States.

Now identically the same utterances have been scattered around since 1848 when Karl Marx appears. If we are

to suppress such as those, we are to suppress Karl Marx doctrines. We are to suppress a greater part of the Socialist Propaganda. Now, we of the Negative believe that this Socialist propaganda is based on false ideals. We are opposed to it but we do not believe in the suppression of the idea. That is the point where we differ with the Gentlemen of the Affirmative. The case of the people vs. Gintlo in New York in which a certain radical, Gintlo, wrote a pamphlet in which he advocated political mass action is a case in point. I don't know what political mass action means. But Mr. MacAdoo evidently does know. He said political mass action means general strike; general strike means coertion. Coertion that means suppression. Suppression means exterminat on, violence and anarchy.

There you have suppression; just what the Gentlemen of the Affirmative are arguing for. That is how the law is going to be applied. We believe that if you are going to have a policy of suppression you have to suppress Karl Marx, and every revolutionary utterance and that is the policy to which we are fundamentally opposed. It might be a good thing to suppress certain men whose ideas are dangerous but you will not only suppress Karl Marx by a policy of suppression but a great many other writers whom I don't think most of us would agree to the propriety of suppressing.

Let me quote a few from among those whom we all know. "I hold a little outburst now and then to be a good thing as those in the political world are as storms in the physical world." Thomas Jefferson. The works of Thomas Jefferson should be suppressed, although that falls in the classification of the question this evening. "The right of a nation to kill a tyrant can no more be doubted than that to hang a robber or kill a flee." That is John Adams, second President of the United States.

And then there is a document with which you are all familiar which says whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it. That is the Declaration of Independence.

And let me read another to you. This took place in

the house of Congress January 12th 1848 in which a Congressman from Illinois said: "Any people anywhere being so inclined and having the power, have the right to rise up, shake off the existing government and form a government that suits them better; nor does the right confine itself to cases in which the whole people of an existing government may choose to execute it. Any portion of such people may revolutionize, intermingled with those who oppose their movement." That radical was Abraham Lincoln.

I have quoted three Presidents of the United States who under the proposed question would have to be suppressed. It might be a good thing to suppress certain Socialists and anarchists; but we do not believe it would have been a good thing to put Thomas Jefferson and Abraham Lincoln and Adams in jail for revolutionary utterances, and yet, we can not escape from the fact that under this law such men would be put in jail.

But we all know that if this were adopted we should not suppress all the work of Thomas Jefferson and we should not put men in jail like Abraham Lincoln. We should be particular to pick out those men whose views were unpopular and we should apply this principle to them at the same time not applying it to other workers. That is the reason we are opposed to it. The policy of suppressing doctrines because they are unpopular is a policy which is fundamentally opposed to any principle of free government.

Because, as Lord Ackin said, the right of a minority is one of the fundamental bases of a free government.

Now the point then is, how are we to meet this wave of radicalism and how to meet the advocacy of the overthrow of the government by force and violence. We propose to meet it by allowing men to talk and waiting till their word constitutes a definite attempt; till their word constitutes a conspiracy, before prosecuting them. We believe in meeting force and violence with force and violence but we do not believe in meeting ideas with force and violence. We believe in meeting ideas with ideas.

If there are misguided men and women who would throw over the present government we should try to per-

suade them that ours is the best and make of them loyal citizens.

We have pointed out that there are no real needs for such legislation at the present time. The wave that swept over Seattle probably only affects one hundred thousand people but we believe there are one hundred million Americans who are firm believers in the American constitution and we believe the safety of this republic depends not upon the policy of suppression but upon the loyalty and intelligence of these hundred million people. If some people fight the government the rest don't need to be protected against radical ideas because they can protect themselves. This is the paternalistic view. The people will fight to govern it and to reject dangerous ideas.

We have pointed out in two places that this policy has been tried and failed disastrously. It has been disastrous to progress. This policy deadens public opinions and does not develop the kind of public opinion that makes a democracy strong.

And lastly, we have tried to point out that it is not the American way of meeting the situation. The American way is of education and Americanization and free speech.

We leave the Negative case therefore at this point. There is no need for any drastic policy. We have plenty of time to rely upon the same force which has always pulled the people through. But not only is a policy of suppression undesirable because it is unnecessary but also because it won't work. It won't work because it is an attempt to apply among the foreign element a method which has failed when tried among those same people by their home government in their native land; failed when tried in England, France, Russia and America. And secondly, the policy shatters public opinion as the bulwark of liberty under law. The very thing which has saved us and at the same time upheld our form of government has been this same force of public opinion.

And this suppression creates a spirit of antagonism which makes a propagandist much more dangerous, first by the abuse of power and second because it makes martyrs out of those who are suppressed.

It is for these reasons that we prefer to let a man stand up and make a fool of himself rather than to suppress him.

FIRST NEGATIVE REBUTTAL

William S. Holbrook, Harvard

Ladies and Gentlemen: The Affirmative have told us this evening that we are going to get the small fry in this radical propaganda and they are going to get the big fish. How would their law work?

You have a number of people in this country, a number of radicals who actually believe what they are saying. Do you think that by putting him in jail, you can stop that sort of man? That has assassinated some of our Presidents in the past. Certainly not! The only way is when he has committed an overt act. Despite the laws against him, he goes ahead. But you are going to stop a certain person—the mild person that does have a grievance in a peaceable sort of way; and the result is Thomas Jefferson in jail. You put the mild objector away, but you are not going to stop the dangerous radical in any way.

A practical example. They have told you a great deal about thirty states having adopted these laws. Let us take one.

A woman in California, a graduate of Wellesley, a woman who had worked in social service for a long time, a woman who didn't believe in communist doctrines but had joined a party named the Communist party, was convicted in the State Court of California merely because she belonged to that party; under these laws that the Affirmative have advanced, and sent to the penitentiary for twenty years.

Now, take the other side. According to Ole Hanson in the article of the World's Work, the leaders of the strike that the Gentlemen of the Affirmative mentioned, caused several deaths, the leaders of that strike are still plotting, are still hatching revolutionary designs in the central labor belts in Seattle. That is the working of the law.

Now let us see how the Negative works. We don't believe in allowing people to actually endanger the government—but you don't have to suppress to get them. A provision of the

government states that whoever starts, sets on foot, engages in rebellions should be imprisoned for not more than ten years. Section six: If two or more persons conspires to put down or destroy the government or opposes the authority thereof, shall be punished, and this does not mean mere action. For under the case, Wells vs. the U. S. the Court held that it was not necessary to show that force was employed but there was a conspiracy as a satisfactory means to the accomplishment of a common purpose to oppose the execution of the law on the authority of the United States government. And that, Ladies and Gentlemen, is what the Negative believes in this evening. Perhaps it is stated in the opinion of the United States Supreme court in the United States statutes better.

"The question in every case is whether the words are used in such circumstances and are of such a nature to create a clear and pressing danger that they will bring about the substantial evils that Congress has a right to put down."

In other words, we would put down the radical and won't put Thomas Jefferson in jail.

FIRST AFFIRMATIVE REBUTTAL

Earl C. Nelson, Washington

Ladies and Gentlemen: The chief contention of the Negative seems to be that we don't need this because the measures we propose are too drastic; and we don't believe you can suppress an idea.

Ladies and Gentlemen, we are not suppressing an idea, we are suppressing a crime, the advocacy of a crime, the advocacy of force and violence as a method of governmental change.

Ladies and Gentlemen, are we suppressing an idea when we say an individual can stand on the soap box and advocate a Communist form of government; Soviet or Bolshevik form of government? An individul can criticize any governmental official; can advocate any theory he wants to. We draw the line when that individual advocates a crime; when that individual advocates force and violence as the method of attaining that idea, be it Communist, Bolshevik or what not.

Gentlemen, the third speaker of the Negative has told you

that we want the American way: education or counter propaganda. Ladies and Gentlemen, we have no quarrel with the Negative; we are heartily in favor of education, are heartily in favor of four-minute men as counter propaganda. We will double any budget they wish to propose. We are in favor of it. But Ladies and Gentlemen, we need a law to suppress the criminal propagandists who advocate force and violence as a method of governmental change.

The Gentlemen of the Negative have attempted to minimize the need of suppressing this criminal propaganda throughout the entire debate. Let me recall the remarks of my colleague, the third speaker of the Affirmative, who showed the real and vital danger of this propaganda, when used in connection with strikes. The propagandist takes advantage of the bitter feeling which is always engendered in any industrial warfare, fits his propaganda to the exegencies of the occasion. If the strikers are losing he represents to them that the government has been responsible for the loss of the strike. He urges them to exercise their powers to a greater extent: to resist the government of the United States.

I believe that I can make this situation clear and at the same time present fundamental evidence to suppress it, by citing two instances.

There was an unsuccessful strike at a place in Washington. "The President says the strike is broken. Perhaps it is; that depends on whether your spirit is broken or not. The state broke your strike—you must break the state."

The men in were successful. The International Weekly said: "Your battle is only begun. The strike is but a preliminary skirmish: the fruits of your labor may be wrested from you by a Capitalist government. You must control that government; it means war but we fought the Capitalist war, why should we not fight our own war?"

But no, there is no need of suppressing this propaganda. Ladies and Gentlemen, I did not try to picture the United States on the verge of ruin. It is not necessary for us to show actual rebellion, we have established our case if we can show you that a need exists; that a danger exists and certainly that danger does exist when propaganda of the character which I read to you is distributed among the men

in our basic industries; whom class hatred has already inbittered by industrial warfare. Attorney General Palmer has summed up the situation in the following statement:

"There is a condition of revolution and contention on the part of the aliens and citizens which is of sufficient widespread a character to merit the serious consideration of the Congress. This is manifested by the threats, both written and spoken on the part of such persons to injure, destroy or overthrow the government by force and violence."

Ladies and Gentlemen, do you wait until your cities are in flames before you provide adequate fire protection? I thank you.

SECOND NEGATIVE REBUTTAL

Barton H. Kuhns, Harvard

Ladies and Gentlemen: We of the Negative have no intention whatsoever of minimizing the need of some remedy for the present situation in this country, but we do emphasize the fact that that remedy should really and truly be a remedy and most of all that it should not be a remedy which would tend to create a greater need to make the condition even worse than it was before.

One of the speakers has told you about the lighted match, and he proposes to remove the lighted match. That may be a very good idea. It may help to put out the fire, but first we must remember that the policy they propose puts out every match in the country and you must light your cigars by flint.

But they say their policy will be a remedy. It will be applied obviously among the ignorant aliens and it is right there that it will not do what they say it will.

It will create class hatred, for they have come to this country because they thought this was the land of the free. To escape suppression, and when they find out that our government has a policy of suppression, their first thought will be: "Well, we thought this was a free government, a free country; but after all, governments are the same the world over." And just as those people were op-

posed to the government which they left; just as they were antagonistic to them, so a policy of suppression here will make those people think our government is the same. It will make them antagonistic and will create a revolution here instead of being a real reformation. It will tend to increase the class hatred, will only make conditions worse. But not only as a question of need; if the gentlemen of the Affirmative could establish a need, will the question of suppression work—and that the gentlemen have failed to do.

It is true they have said that there have been instances by an autocratic minority, but this shows only that a policy they advocate is an autocratic method.

First of all, the minority; if we have a policy how are we going to tell where the minority is. Nobody will be allowed to express their opinions and not only that, but Lord Acton has said that the fundamental test is the protection of the minority.

And in other words, it is the minority in our population which it is our fundamental duty to protect, least of all to suppress. But after all, it is a confession of weakness of our fault in the cause of liberty, of the principle which we advocate, if we refuse to let those whose ideas do not conform to ours present them and expound them before the rest of the people.

Then another big principle runs as follows:

When the rights of an individual interfere with the rights of a community, those rights can be suppressed. That is a fundamental principle of political science. It is perfectly true but we must be sure that the rights of the individual really are interfering with the rights of the community and we must be sure we are getting the right remedy. It is not a new principle, because slander and libel are already suppressed. There is an important distinction here because the harm in cases of slander and libel comes when the slander and libel is uttered. Not only that but when a man hollers "fire" in a crowded theatre, the crime has been committed when the man said there was a fire.

But in the case of advocating the overthrow of the government by force and violence, there can not be a crime

until the overt act takes place and that is just where we of the Negative propose to get the man. We are going to stay by the same old principle. The same old principle which they have tried to take over on their side. We are going to wait until the crime takes place and it does so in this case when the overt act, when the force and violence takes place, it is then that the crime is committed and then that we of the Negative are willing to get the man.

SECOND AFFIRMATIVE REBUTTAL

Floyd Toomey, Washington

Ladies and Gentlemen: I think it must be apparent that there is a flaring inconsistency here. The speaker who just left the floor told you that the Negative stood upon the principle of the overt act as the test for the punishment of the crime and yet the first speaker told you that they stood squarely upon the conspiracy law, and Gentlemen, he quoted the case of Wells, of the Circuit court which showed that the overt act was not the test.

We feel that the gentlemen of the Negative have made a fatal admission. They told you they stand upon the conspiracy law and yet this section six is exactly the same principle of suppression which we are advocating.

We stand upon the conspiracy law which punishes one or more persons who conspire, that contemplate the use of force. The only difference between the conspiracy law and the measure we are supporting is that it takes two or more in order to gain a conviction. What we want is a measure where we can get the individual who advocates this. Only by reaching him can we reach the issue involved.

They have stated that they stood upon the conspiracy law and yet, standing upon it is identical in the test of criminality as the measure which we are advocating. The trouble with it is that it does not go far enough. We want an extension of our conspiracy law by which we will not have to wait till the jury can prove the guilt of a plurality of persons. We want a law which will carry the principle

of this law, which these gentlemen have admitted, to the individual; by which we can suppress the advocacy of the overthrow of the government by force and violence.

Throughout the whole of this debate the gentlemen of the Negative has exaggerated the issue as being of drastic suppression, and yet they come out here and say they stand upon a law which is identical in purpose and extent with the only limitation that it takes two or more persons to conspire together. No overt act is necessary under our conspiracy law. It is the same ideal under the conspiracy law. The conspiracy law and the law which we are advocating is limited not to the idea but to the administration of a criminal method.

We are advocating Criminal legislation just as our conspiracy law is a part of our criminal code. Ours is the extension which the gentlemen have admitted, of a principle which enables the government to suppress the individual. If this measure would be susceptible, so then must the conspiracy law, upon which these gentlemen have placed their stand. It is not a question of more laws, but as to whether or not we shall suppress this limited class of propaganda.

If the gentlemen of the Negative are not to admit the principle, then they must advocate the repeal of all laws which are passed upon that principle.

Again I must tell you that they have referred to suppressive legislation as being drastic, yet they have overlooked the fact that the measure that we have advocated is limited in such a way that it draws the line at the point where it does not interfere with public opinion or peaceful change. They told you this lay would suppress public opinion. That it would overthrow the force of public opinion. In what respect does it overthrow public opinion? It draws the line at a point where it does not interfere with peaceful changes. It draws the line at a point where it does not interfere with the criticisms, opinions or beliefs of peaceful citizens. It draws the line at the point where it suppresses the impatient, destructive minority who repudiated all political action as a means of governmental change—and by that restriction we have supported the very principles upon which that government rests.

THIRD NEGATIVE REBUTTAL

Lawrence Dennis, Harvard

Ladies and Gentlemen: It seems at this stage of the discussion the decision hinges on the conspiracy act and the issue involved. It is quite clear that in upholding the conspiracy act that we wish to protect the government of the United States. By punishing any speech which forms a part of the conspiracy to overthrow the government, we should do this, but the fundamental difference is just this: that the man who gets up and makes an utterance like I read to you from Thomas Jefferson and Lincoln and does not enter in a conspiracy is different from the case mentioned previously where that very kind of utterance was held to be propaganda for the overthrow of the government by force and violence.

Now, the distinction is not sharp and that makes it rather difficult to keep the issue in mind, but the difference is very fundamental. The man who gets up and indulges in an utterance like that from Thomas Jefferson or Lincoln or many others equally famous does not enter a conspiracy. We do not wish to take the position of leaving the government of the United States unprotected against an active conspiracy, but we do maintain that right there the line is drawn. We do not wish to punish the man who gets up and indulges in wild revolutionary utterances which have been read in the speeches of the Affirmative, or the rights of any individual. We wish only to punish a speech when that constitutes a definite conspiracy, an act to overthrow the government of the United States by force and violence and the line can be clearly drawn at that point. And the courts have found no difficulty in drawing that line. That is our position; that is the position of freedom of speech as we interpret it in our country.

The rule has been laid down that a speech may be punished when it constitutes a present danger which the government has a right to protect itself against; but not the punishment of a speech which is merely inflamatory or revolutionary in its general trend, but which does not con-

stitute a part of the definite conspiracy to overthrow the government.

We have not entirely minimized the Bolshevik menace. We admit that there may be a severe menace.

There exists a certain radical element who would overthrow the government, but we maintain that as long as there are one hundred million American citizens it is not necessary for us to restrict their right of free speech in order to protect the government against that minority. And we have pointed out that our remedy of counteracting the agitation is the remedy of getting at the causes of discontent, whether they be social or economic.

We are not here to outline such a program but we believe in the policy of getting at the causes and secondly in educating the people who are influenced by such propaganda in a policy of Americanization, if we can use that word to define what we mean; of taking immigrants and trying to make of those men and women citizens who will respect and who will support the constitution of the United States.

And lastly we have tried to point out that this policy of suppression where it has been employed has not succeeded and the gentlemen have not been able to quote from history any example of the successful application of suppression. Where that policy has been applied it has limited the liberty of the people and always ended in revolution. As President Lincoln said: "Suppression is the seed of revolution."

And lastly we have tried to point out that the issue so far as we are concerned is that we will not punish speech unless that speech constitutes a definite crime against the government. We will not make speech criminal—and that is what the Gentlemen of the Affirmative propose to do. If a man gets up and says he believes in revolution, we will not make the expression of that opinion a crime.

THIRD AFFIRMATIVE REBUTTAL

Wendell W. Black, Washington

Ladies and Gentlemen: After listening carefully to the argument of the preceding speaker the only distinction

that I could see that he made between the conspiracy law and the law which we are proposing is that under the conspiracy law there are two or more necessary to get a conviction. The gentlemen have throughout this debate said they were in favor of legislation which involved the overt act and I believe everyone said that they meant some act of violence against the government.

But then the third speaker tells us by the overt act they mean the meeting of the mind between two or more persons and I leave it to you whether it is taken in the form of advocating the overthrow of the government does not constitute an overt act as much as the meeting of the minds. They have told you that the law would be abused and history showed that it would be abused but not once during this debate have they quoted the treason felony act of Great Britain of 1848 which is now in effect. It is a law somewhat similar to the measure we are advocating.

Similarly they told you of our alien and sedition laws; laws of the time of Bismark in France and Germany but of this law in England they told you nothing. Hyde Park is the greatest form of free speech making in the world; but by the law of England one can advocate anything. Any conceivable form of government; criticize the King, Parliament or any one at his pleasure but he cannot, by the law of England advocate the overthrow of the government by force and violence.

The gentlemen have stated that they are in favor of education and I want to once more point out that there is no issue here as to education. We of the Affirmative are as heartily in favor as are the Gentlemen of the Negative. We believe that we should teach the people of this country from the kindergarden up, that they should not steal and should make it illegal to steal and we should teach the people that they should not advocate the overthrow of the government by force and violence. That we should educate them and that we should supplement this by legislation making it illegal to advocate the overthrow of the government by force and violence.

We believe that the admission as to the conspiracy law gives the Affirmative a complete case. But if we ignore that fact, the only issue was as to whether this would

remedy the situation. They have told you it would be an undemocratic thing to do to suppress ideas and that would prevent it from being a remedy; and Ladies and Gentlemen, although a Communist form of government may or may not be bad it is not an idea and can be suppressed by legislation.

If we were wrong in this and force and violence were an ideal it should be suppressed. We recognized this, although it interfered with the religious belief of the Mormon people. At first the law was difficult to apply but finally it is very effective. And we maintain that legislation against the advocacy of force and violence would have the same remedial results which raised the moral standard of a part of our people.

We are not as well acquainted with the conditions in the East as we are in the West, but the danger in the West is a danger in the East also.

A danger to one is a danger to all. If we have not convinced you of the magnitude of the danger, the fault is with us, because the danger exists. But if we have brought home to you the danger as it has been brought home to us in the West, I am sure you will agree with the Affirmative that speech advocating the overthrow of the government by force and violence should be suppressed. I thank you.

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